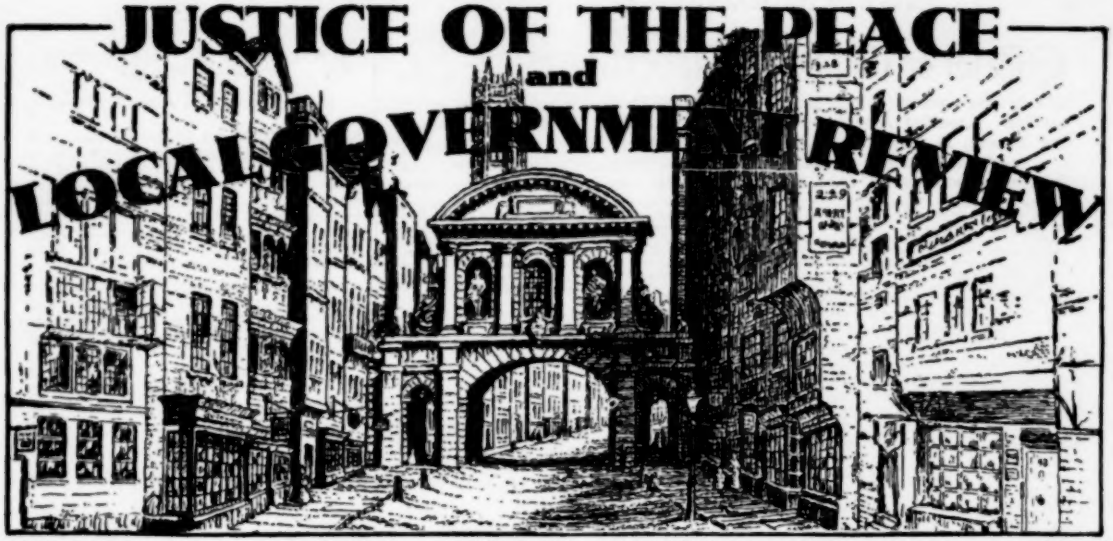

VOL. CXVI LONDON: SATURDAY, JANUARY 26, 1952 No. 4

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Official & Classified Advertisements, etc.

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APPLICATIONS are invited for the above post. Applicants should have had previous experience in the office of a solicitor or in the legal section of a clerk's department of a local authority and possess a good knowledge of conveyancing and general legal work. The duties will also include a limited amount of committee work and applicants should be competent to prepare minutes and reports and to carry out the work arising therefrom.

Salary in accordance with Grade A.P.T. III (£500/£545).

Applications, stating age and full details of experience, accompanied by copies of two recent testimonials should reach me not later than February 9, 1952.

E. J. K. GIBBONS,
Town Clerk.

Municipal Offices,
Falmouth.
January 15, 1952.

PETTY SESSIONAL DIVISION OF HOLLAND (ELLOE)

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APPLICATIONS are invited for the appointment of a whole-time assistant to the Clerk to the Justices. Applicants must have had considerable magisterial experience, be competent shorthand typists, capable of issuing process and keeping the accounts.

Salary £450/550 according to qualifications and experience.

Applicants, together with copies of three recent testimonials by February 9, 1952.

G. F. SMALLWOOD,
Clerk to the Justices.

31 The Crescent,
Spalding, Lincs.

CITY OF COVENTRY

Appointment of two Male Probation Officers

APPLICATIONS are invited for the appointment of two male probation officers.

The appointments will be subject to the Probation Rules, and the salaries will be in accordance with the scale provided under those Rules.

Applications, stating age, qualifications, experience and present salary (if already serving), and accompanied by not more than three recent testimonials, must reach the undersigned not later than Monday, February 11, 1952.

A. N. MURDOCH,
Secretary to the Probation Committee.

St. Mary's Hall,
Coventry.

CITY OF PORTSMOUTH

Appointment of Whole-time Female Probation Officer

APPLICATIONS from women (married or single) are invited for the above appointment, which will be subject to the Probation Rules, 1949, as amended. Applicants must not be under the age of 23 or have attained the age of 40 years (except in the case of serving whole-time officers). The salary will be as provided by the Rules subject to deductions for superannuation. The successful applicant will be required to pass a medical examination.

Applications, upon a form which can be obtained from this office upon receipt of a stamped and addressed envelope, must be forwarded to reach me not later than February 11, 1952.

F. W. ANDREWS,
Secretary to the Probation Committee.

17 and 18 Western Parade,
Portsmouth.

LANCASHIRE No. 12 COMBINED PROBATION AREA

Appointment of Male Probation Officer

APPLICATIONS are invited for the above whole-time appointment. Applicants must be not less than 23 nor more than 40 years of age except in the case of serving officers. The officer would be centred at Warrington. The appointment will be subject to the Probation Rules, 1949 and 1950, and would be superannuable, the successful candidate being required to pass a medical examination.

Applications, stating age, qualifications, and experience, together with the names and addresses of two persons to whom reference can be made, should reach the undersigned not later than February 2, 1952.

ARTHUR P. V. PIGOT,
Clerk to the Combined Committee.

20, Winmarleigh Street,
Warrington.

CITY OF MANCHESTER PROBATION AREA

Appointment of one Whole-time Male Probation Officer and one Whole-time Woman Probation Officer

APPLICATIONS are invited for the above appointments. Applicants must not be less than twenty-three nor more than forty years of age, except in the case of whole-time serving officers. The salary and conditions of service will be in accordance with the Probation Rules, 1949 and 1950.

The successful candidates will be required to pass a medical examination.

Applications, in own handwriting, stating age, present and previous employment, qualifications and experience, together with copies of two recent testimonials, must reach me not later than January 31, 1952.

WALTER LYON,
Secretary to the Probation Committee.

12, Minshull Street,
Manchester, 1.

CITY OF MANCHESTER PROBATION AREA

Appointment of Principal Probation Officer

APPLICATIONS are invited for the appointment of a Principal Probation Officer in the above area. Applicants must be fully qualified to perform the duties as specified in Rule 50 of the Probation Rules, 1949.

The appointment will be subject to the Probation Rules, 1949 and 1950. The commencing salary will be in accordance with Scale No. 4 of the Third Schedule of the Probation Rules, 1950.

The successful applicant will be required to pass a medical examination.

Applications, stating age, present position, qualifications and experience, together with copies of not more then three recent testimonials must reach the undersigned not later than January 31, 1952.

WALTER LYON,
Secretary to the Probation Committee.

12, Minshull Street,
Manchester, 1.

Justice of the Peace
and
Local Government Review
[ESTABLISHED 1837]

VOL. CXVI. No. 4. LONDON: SATURDAY, JANUARY 26, 1952 Price 2s. 3d. (Including Reports)
Pages 49-64 Offices: LITTLE LONDON, CHICHESTER, SUSSEX. [Registered at the General Post Office as a Newspaper] Price 1s. 3d. (without Reports)

NOTES of the WEEK

Witness Refusing to take Oath

It is by no means unusual for a witness to object to the taking of an oath, and it must be fairly widely known, not only in the courts but also among members of the general public, that a witness may be allowed to make affirmation in lieu of taking an oath.

It is therefore surprising to read of a case before a magistrates' court in which a witness who refused to be sworn, obviously on religious grounds, was eventually ordered by the chairman to stand down, and gave no evidence.

The witness told the bench he was a Christian and was not going to be a hypocrite and take the oath. That he was not trying to be obstructive, or evading the duty to give evidence, appears clear from his statement that he was quite prepared to speak the truth without taking the oath, and was anxious to help. When asked by the chairman to what creed he adhered, the witness replied that there was only one form of true Christianity.

The fact that the chairman asked the witness about his creed suggests that the court may have thought that only such persons as Quakers and Moravians were entitled to give evidence without taking an oath. That, however, is not so. By s. 1 of the Oaths Act, 1888, it is provided that every person upon objecting to being sworn, and stating, as the ground of such objection, either that he has no religious belief or that the taking of an oath is contrary to his religious belief, shall be permitted to make his affirmation instead of taking an oath, such affirmation being of the same force and effect as an oath. All that is necessary, therefore, when a witness objects to taking an oath, is to ask him whether he objects because he has no religious belief or because to take an oath would be contrary to his religious belief. If his objection is based on either ground he should be allowed to affirm, without any inquiry as to his particular creed, if he has one. He must base his objection on one of the two statutory grounds, but that is all. Once satisfied on this point, the court invites a witness to affirm.

There must surely be something more in this case than appeared in the newspaper report. The court must have known about the alternative of an affirmation in lieu of an oath.

Juvenile Court Panels

Rule 2 of the Juvenile Courts (Constitution) (Amendment) Rules, 1950, provides that a justice shall not remain on the juvenile court panel after he has attained the age of sixty-five years, but r. 3 adds that the Lord Chancellor may exempt a justice from the operation of this rule if he considers it necessary in order that there may be a sufficient number of justices on a panel.

Rule 3 has been the means of tiding over difficulties, but there has now been time to appoint additional younger justices, and in Home Office circular No. 266/1951, dated December 31, it is stated that steps have now been taken in most parts of the country to add sufficient justices to the Commissions of the Peace to enable suitable additions to the juvenile court panels to be made, and therefore the Lord Chancellor will not normally grant further exemptions. It must not be assumed, therefore, that the exemptions that have been granted will be extended.

The circular also deals with the question which has arisen, to our knowledge, in some districts, as to eligibility of a justice who is a member of the panel for one division to sit in the juvenile court for another division in the same county. It seems that in some quarters the view has been taken that a justice elected to a juvenile court panel for a petty sessional division of a county might sit in the juvenile court of any other division in the same county. This is not a sound opinion. As is pointed out in the Home Office circular, the language of sch. 2 to the Children and Young Persons Act, 1933, and the Juvenile Courts (Constitution) Rules, 1933, makes it clear that a justice is qualified to sit in a juvenile court only in the petty sessional division, or divisions, where he has been duly appointed to the juvenile court panel, or panels.

Rights and Duties

We were impressed by the report of a speech made by Mr. F. W. G. Ridgewell, the retiring chairman, at the annual general meeting of the Incorporated Association of Assistant Masters in Secondary Schools. In the course of his address he said the unpleasant truth was that until children grew up to do a good honest day's work, without continually expecting to get more money for doing less work, and without expecting something for nothing, there would be no real improvement in our standard of life.

Not long afterwards, the chairman of Martin's Bank, Mr. A. Harold Bibby, D.S.O., D.L., in his statement prepared for the annual general meeting of members wrote, when referring to the question of higher wages or profits as a means of maintaining the standard of living:

"The general bewilderment obscures what is surely the fundamental fact—namely, if each and all expect to receive £1 for 10s. worth of work or goods it cannot be long before the £ generally becomes worth only 10s.

"So long as this present-day attitude continues, the purchasing price of the £ must decline and the only way to arrest the trend and make the purchasing price of the £ increase is to give something of more value than £1 for the £1 reward which we demand for our individual effort, be it of brain or muscle."

The great principle behind both utterances is that everyone should realize his duty to other people and not be obsessed by his own rights. If this spirit pervaded the trade unions, both officials and rank and file, and equally, all employers and their associations, if every individual made up his mind to do his best for the whole community, and not only for one class or section, and to think rather less about his own pecuniary rewards and the best way of increasing them, the general standard of living would be maintained, there would be more goods available and money would have a greater purchasing power before long.

Mr. Ridgewell, speaking of juvenile delinquency, parental control and the absence of mothers at work said that an allied problem was the modern tendency to talk far too much about rights, and far too little about duties. But he believed that the Grammar Schools had been outstandingly successful in instilling a sense of duty into pupils.

We are glad to see this recognition of the plain facts of the situation by an influential body of teachers. When parental influence is lacking we are inclined to look to the teachers to supply the remedy. This is expecting much, but we believe that there are many teachers who are anxious to instil into the children the right ideas of unselfishness, consideration for others and duty to their neighbours. Children who grow up under their influence can do much in after life to change the attitude of those who have failed to realize any obligations towards other people. Things will improve when people think more about their own duties and other people's rights, instead of their own rights and other people's duties.

Indecency in Presence of Children

A suggestion by the Lord Chief Justice in the course of delivering his judgment in *Fairclough* v. *Whipp* [1951] 2 All E.R. 834, will no doubt be duly noted for discussion and possible action; "It might be a good thing if Parliament passed an Act providing that any indecent conduct done in the presence of, or in relation to a child should be punishable." Most people, we think, would agree that such conduct, on the part of adults at all events, should constitute a criminal offence.

Upon the facts alleged in *Fairclough* v. *Whipp*, it might have been considered appropriate to prefer a charge of indecent exposure, under s. 4 of the Vagrancy Act, 1824. The child was a girl, and if the man exposed his person and called her attention to it, it would seem reasonable to allege exposure with intent to insult a female.

Marriage or Affiliation Order?

When a young man aged twenty, defendant in bastardy proceedings, was asked whether he wished to ask the girl any questions, he replied, "Ask her if she will marry me." The clerk passed on the proposal, and the complainant, a girl of twenty, replied after hesitation, "Yes." The young man promised to pay 15*s.* a week in the meantime, and the couple left the court together.

As both were under twenty-one years of age, the question of parental consent will arise, which may be a good thing. If the two young people are genuinely fond of each other, marriage may be the best arrangement possible, always provided they are in a position to make a home together within a reasonable time. In that case, one wonders why there was apparently no proposal of marriage until the proceedings in bastardy had actually come into court. If the young man looks on marriage as a way out of a difficulty and nothing more, the prospect is not so attractive as might be wished. To marry only because a baby is coming is not by any means wise, although we must respect those who, from religious motives, regard it as a duty.

If there is a hopeful outlook for a successful marriage, that has the great advantage that the child will be legitimated by the marriage, but we would not advocate a marriage for that purpose alone between persons who had no real affection and consequently no expectation of lasting happiness, unless they felt compelled by religious motives.

The newspaper report does not state whether an affiliation order was made or not. As the young man admitted the paternity it may have been as well if the order was made, just in case the marriage does not take place after all.

Absolute Discharge

There has been a certain amount of criticism of the term "absolute discharge" in the Criminal Justice Act, 1948, partly because it suggests acquittal, partly because a defendant who is told he is absolutely discharged and then ordered to pay costs or compensation is inclined to think his discharge is anything but absolute. The term is not ideal, but it is not easy to think of exactly what it ought to be instead.

A provincial newspaper, reporting a case heard in a magistrates' court, stated that the defendants were "unconditionally discharged." That is not a statutory expression, but some people may think it conveys the idea rather more nearly than "absolute discharge." It contrasts with "conditional discharge," which is becoming familiar, and it seems somehow to negative the idea of actual acquittal. It is worth thinking about, at all events.

Whatever be the language of the statute, the important point is that a court, when making an order of absolute discharge, should explain its significance and effect, especially if an order as to payment of costs or compensation is being made at the same time. Then neither the parties to the case nor members of the public should be left under any misapprehension.

Planning for Sewerage

So much is said in these days about delay in building, especially in the provision of housing accommodation, through the need for consulting so many interests in advance, that it is almost startling to read what is said in the newspapers to have happened about sewerage at Basildon. From the earliest days of town planning, the provision for getting rid of effluents has been a primary point with those advising local authorities and estate owners, yet papers lately sent to us indicate that the development corporation have had to make a serious change in their proposals, after these were far advanced. The obvious method of draining the town was northward, into the river Crouch, since most of the new town lies on a northern slope facing towards that river. The Ministry of Agriculture and Fisheries have, however, raised objections because of the effect upon the oyster beds near Burnham-on-Crouch. It is not that the sewage from Basildon was expected to be in breach of the statutory restrictions on the discharge of effluent. It was to have been properly treated but, even so, it is said that its quantity would be enough to reduce the salinity of the sea water, and so to interfere with the reproductive faculties of the Burnham oysters. Oyster beds are a valuable asset; the strange thing about the story is that the danger, from a marked increase in the volume of the river Crouch, was not thought of till so late a stage. The effect of the objection now taken is that sewage from the northern slope, where most of the town will stand, will have to be collected and pumped back from north to south, so as to reach the Thames. This change will (it is said) affect the corporation's planned programme of development. We are not sure what the moral is. It seems to be *festina lente*, even in relation to new towns.

CASES MORE FIT FOR THE HIGH COURT

[CONTRIBUTED]

The Summary Jurisdiction (Married Women) Act, 1895, s. 10, reads : " If in the opinion of a court of summary jurisdiction the matters in question between the parties or any of them would be more conveniently dealt with by the High Court, the court of summary jurisdiction may refuse to make an order, and in such case no appeal shall lie from the decision of the court of summary jurisdiction. Provided always, that the High Court or a judge thereof shall have power in any proceeding in the High Court relating to or comprising the same subject matter as the application so refused aforesaid, or any part thereof, to direct the court of summary jurisdiction to rehear and determine the same."

This section is not often invoked : but from time to time the question arises in summary courts as to whether the power it confers should be used. It is important to understand the implications of the section and to be familiar with the few reported cases which give guidance on its interpretation.

The first point to be made is that the effect of invoking the terms of the section is to refuse an order. The case before the summary court is not *remitted* to the High Court : it is closed—at any rate for the time being. As can be gathered from the last clause of the section, the High Court may order the court of summary jurisdiction to " rehear and determine " the matter : the High Court may, in its turn, and with its conclusive authority, decide that the case is appropriate for the lower tribunal. If it does so decide the ruling must, of course, be accepted.

In a case within the writer's recent experience the point arose as to whether, having refused an order under the terms of the section, a court of summary jurisdiction may go back on such a decision before the High Court has become seized of the matter. The answer is not clear from the wording of the section. In the case in question the learned magistrate who had initially refused the order allowed counsel from both sides to address him in the presence of the parties on a date mutually agreed. From what was said it transpired that considerable hardship would result to the wife from the refusal of an order : the matter in issue was one of desertion, and the statutory three years interval required for divorce proceedings had not by any means expired. The learned magistrate decided that there was nothing in the section which precluded him from ordering the original summons to be reinstated. He did so, and in due course made an order. It is submitted that, provided High Court proceedings have not been begun, there is nothing wrong in such a procedure. The matter is not *res judicata*—for no adjudication is given when in such circumstances an order is refused. Nor does any administrative process have to be reversed for no machinery is prescribed for reference of such a matter to the High Court.

The case of *Perks* v. *Perks* [1945] 2 All E.R. 580 is a valuable authority on the interpretation of the section. We have not space to deal with the arguments advanced on either side, but they are well worth study, for they show how difficult the section can prove. Sufficient must it be to record that the case of *Perks* v. *Perks*, *supra*, arose from a husband's application to a court of summary jurisdiction to discharge a maintenance order on the ground of his subsequent *bona fide* offer to resume cohabitation with his wife. The learned magistrate refused to deal with the application as he took the view that it " would be more conveniently dealt with in the High Court." In consequence the husband issued in the Divorce Division an *ex parte* summons asking for directions how to proceed under s. 10, *supra*. On that summons, the learned judge made an order that an originating summons was to be issued out of the Divorce Registry, and that the hearing was to be by oral evidence in open court. Upon the hearing of this summons the learned judge discharged the maintenance order, and the wife appealed.

It will be discerned that the case involved two separate issues : (1) Was the procedure adopted in the Divorce Court correct ? (2) Was the refusal of an order by the learned magistrate appropriate ? The second issue is the one relevant to our present inquiry : we will merely record that the Court of Appeal held that the procedure followed was incorrect.

The judgment of Lord Greene, M.R., in *Perks* v. *Perks*, *supra*, is our authority for saying that s. 10, *supra*, must only be used in cases where concurrent jurisdiction exists in the High Court. His Lordship said : " The matter on which the court of summary jurisdiction is to form an opinion under s. 10 is whether or not the matters in question between the parties could more conveniently be dealt with by the High Court. Those words " more conveniently dealt with " alone clearly suggest, to my mind, that the legislature was considering a case of concurrent jurisdiction and the question which was the more convenient forum. With regard to the more important matters there is concurrent jurisdiction, *i.e.*, separation orders and custody of children. Quite clearly, if the wife is asking for relief under either of those heads, that is a matter in respect of which the High Court has jurisdiction. This statutory jurisdiction conferred on the magistrates is a collateral jurisdiction and, therefore, the question becomes one of which is the more convenient forum. The whole language of the section appears to me to be contemplating a case of alternative *fora*, and the words " matters in question " mean the matters in question in so far as those matters could, independently of this section, be brought before the High Court. A pure question of maintenance by itself could never be brought before the High Court by original application."

His Lordship went on to point out that the type of maintenance issue characteristic of courts of summary jurisdiction was inherently unfitted for the atmosphere of the High Court. He clinched his argument thus : " When the question of maintenance is auxiliary to some matrimonial relief, the position is entirely different, but pure maintenance is essentially a matter for a court of summary jurisdiction. That is what I should have thought would have been the approach of the legislature, and that . . . is the effect of the language which is used."

It must be noted that this decision has been considerably modified by the Matrimonial Causes Act, 1950. Section 23 of this statute, which re-enacted s. 5 of the Law Reform (Miscellaneous Provisions) Act, 1949, reads thus : " Where a husband has been guilty of wilful neglect to provide reasonable maintenance for his wife or the infant children of the marriage, the court, if it would have jurisdiction to entertain proceedings by the wife for judicial separation, may, on the application of the wife, order the husband to make such periodical payments as may be just, and the order may be enforced in the same manner as an order for alimony in proceedings for judicial separation." The procedure to be followed in such cases is prescribed in the Matrimonial Causes (Amendment) Rules, 1950. Just how far this recently acquired jurisdiction of the High Court in matters of pure maintenance entitles a court of summary jurisdiction

to refuse an order in a case of wilful neglect to provide reasonable maintenance is not easy to say. Whilst we may be confident that issues of adultery, cruelty, desertion (in certain cases) and guardianship are matters in which a court of summary jurisdiction could refuse an order under the terms of s. 10, *supra*, the spirit of *Perks* v. *Perks*, *supra*, and the nature of the learned President's remarks lead to the conclusion that only very grave complications would justify refusal of an order in cases where the sole matrimonial fault alleged is neglect to maintain.

But we can safely carry the wider issue a little further. The existence of effective summary jurisdiction in these matters is itself a potent cause for caution in invoking s. 10, *supra*. Courts should beware of refusing an order solely because the facts are complicated. Such is often the case in matrimonial matters, and the fact that the legislature has conferred extensive matrimonial jurisdiction upon magistrates' courts is proof of its belief that they are fully fit for the task.

For what reasons, then, can an order properly be refused? Obviously, if divorce proceedings are pending it is undesirable for a court of summary jurisdiction to become seized of a collateral issue. Again, if the means of the parties are clearly such that an ancillary issue of maintenance could be settled more advantageously for the wife than summary limitations permit, it would be proper for major and minor issue—*e.g.*, cruelty and maintenance—to be dealt with in the High Court. But such cases are not likely to be common. It is not often that maintenance orders made in courts of summary jurisdiction reach the permitted maximum.

No : the majority of cases in which s. 10, *supra*, is invoked are likely to be ones in which High Court proceedings are already contemplated by one or other of the parties. It is helpful to all if, at the start of a matrimonial case, inquiry is made by the bench or the clerk as to whether High Court proceedings in a collateral matter are impending. It is most frustrating to learn that such is the case when a hearing is well under way. Whenever positive knowledge is available that High Court proceedings have been started, or are imminent, s. 10, *supra*, should be used.

THE MOTOR VEHICLES (CONSTRUCTION AND USE) REGULATIONS, 1951

The new year, January 1, 1952, saw our old friends the "Construction and Use Regulations" re-appear in new guise, and this involves the demise of the 1947 edition and of the various amending regulations and also of the Direction Indication and Stop Light Regulations, 1935, and of the Gas Container Provisional Regulations, 1940, with the Amendment (No. 2) Provisional Regulations of the same year. These last named three sets of regulations are incorporated in the 1951 edition of the Construction and Use Regulations. The full list of revoked regulations is in sch. 1 to the 1951 edition.

To deal first with these newly incorporated provisions, we find that reg. 25 requires that every motor vehicle registered on or after January 1, 1936, which is fitted with any direction indicator shall comply, as respects that indicator, with the provisions of the second schedule to the regulations. The regulation, it will be noticed, does not require that direction indicators shall be fitted but does, by the schedule, specify in detail the kind of indicators that are permissible and thus makes any other kind unlawful.

Gas containers are dealt with similarly in reg. 27 and sch. 3.

Reference to the explanatory note printed at the end of the regulations calls attention to what are said to be the principal changes effected by them. We appreciate that this explanatory note is not part of the regulations and is intended only to be helpful by indicating their general purport. We do feel, however, that it should not contain anything which at first glance may be misleading, and we think that such a complaint may justly be made about the reference to the drawing of trailers by public service vehicles which reads as follows : "public service vehicles are forbidden to draw trailers except when empty (reg. 99)." This raises in one's mind a doubt, and one wonders whether it is the vehicle or the trailer which must be empty. Reference to reg. 99 discloses the following : "No trailer shall be drawn by a public service vehicle : Provided that this regulation shall not apply to the drawing of one empty public service vehicle by another empty public service vehicle in case of emergency."

If we are asked how we should have drafted the explanatory note we would suggest : "Subject to a specific exception in case of emergency, public service vehicles must not draw trailers (reg. 99)."

Regulation 99 reproduces exactly the wording of reg. 13 of the Public Service Vehicles (Equipment and Use) Regulations, 1941, and we are not clear why it has been thought necessary (or it may desirable) to transfer this, and the provision about speedometers, from those 1941 regulations to the new ones dealing with the construction and use of motor vehicles generally. We do not doubt, however, that there is some good reason.

The provision about speedometers for public service vehicles (*see* reg. 4 of the 1941 regulations) is now incorporated in the general regulation as to "speed indicators" which are to be found in reg. 12 of the new regulations. This effects a slight change in the wording in that reg. 4 requires every public service vehicle used for the time being as an express carriage to be fitted with an efficient speedometer so placed as to be easily read by the driver, whereas the new reg. 12, following the 1947 regulations as to speedometers generally, requires every such public service vehicle to be fitted with an instrument so constructed and in such a position as at all times readily to indicate to the driver of the vehicle within a margin of accuracy of plus or minus ten *per cent.* if and when he is driving at a speed greater than that specified in para. (2) of the regulation. An efficient speedometer which can be easily read by the driver should, we feel, achieve the desired result, but perhaps it is necessary to be more specific.

Another change noted relates to vehicles designed for street cleaning or the collection or disposal of refuse or the contents of gullies and cesspools, exemptions which applied formerly only to such vehicles when used by local authorities being now applied generally. The exemptions deal with minimum rim diameter of wheels not equipped with pneumatic tyres (reg. 13) : the overhang of heavy motor cars and motor cars (regs. 38 and 43 respectively) ; and the requirements as to tyres on heavy motor cars, and motor cars unladen weight not exceeding one ton (regs. 40 and 45 respectively).

Similarly all vehicles designed for use and mainly used for the purpose of heating a road in the process of construction, repair or maintenance, and not only those used by or on behalf of a public authority, are to benefit from the modification of the method of calculating overhang in the case of heavy motor cars (*see* reg. 38 proviso (*b*)).

In the 1947 regulations (reg. 50) agricultural trailers constructed before July 1, 1947, were, in certain circumstances, exempted up to January 1, 1952, from the requirements of that regulation as to brakes. By reg. 55 of the new regulations this exemption is continued without any time limit.

All works trucks and works trailers (*see* definition in reg. 3), and not only those not exceeding thirty *cwts.* in weight unladen, are now included in an exemption in reg. 13, which deals with the diameter of wheels.

The form of the new regulations has been improved by the addition of an index which makes reference to the relevant regulation much easier, although it is not, and could not reasonably be expected to be, an alphabetical one.

One amendment which we think might have been helpful has not been included in the regulations. It was shown in the case of *Andrews* v. *H. E. Kershaw, Ltd. and Another* [1951] 2 All E.R. 764, that a difference of opinion existed between the judges who decided that case as to the meaning of "overhang." The case concerned a vehicle which, with its tailboard down, exceeded the permitted overhang, and it was decided, with Lord Goddard, C.J., dissenting, that the tailboard was to be ignored in calculating the overhang. This decision will, of course, govern the interpretation of the new regulation, the wording of which is identical with that in the 1947 regulation. It can be urged with some force that it would have been reasonable to alter the definition so that the effective overhang of a vehicle could not be considerably increased at will by lowering a tailboard, which is not subject to any restrictions as to size, and loading on to that. We write, of course, without knowing whether this question received consideration, or whether it is thought that the actual effect of such extra loading is negligible.

KINDNESS TO FLORA

At p. 35, *ante*, we threw out a suggestion for a Bill, which might be introduced by some member of Parliament desirous at once of linking his name with the future of local government, as Michael Angelo Taylor and Colonel Yate associated theirs with it in the past, and of doing a good turn to local government in the present. For any singularly pure young member content with a vegetable love, another topic is indicated by communications reaching us from police and landowners, which we know are likely to be echoed by bodies interested in protection of the countryside. The Christmas season of 1951 produced, it is said, less trespass, theft, and damage, of mistletoe and holly, than had occurred in some previous years, but enough to call for special watching in some counties. And some local authorities and members of the interested societies are already looking forward to the depredation of spring and summer flowers, with the loss entailed both to the appearance of the countryside and to landowners and farmers, by removal of things which can be removed and by the damage done to what cannot. The pulling up of daffodils or bluebells, if carried out systematically, will destroy any chance of the reappearance of the flowers, while incidental damage may take the form of breaking down or injury to fences, leaving open gates, and leaving bottles and other litter about. So again, if there is a field where mushrooms grow, loss is likely to be caused to the farmer or landowner, not only by the picking of mushrooms, but by the carelessness or ignorance of the people who trespass on the field for that purpose, and cause incidental damage. All this means that, with the increase in the number of people motoring, walking, and camping in the country districts, there is a danger that the countryside may be seriously injured. It is a trite saying that in the long run the main remedy lies in education of the public, but this is a slow process; some people are incapable of education, and there is a growing feeling that the law should step in, and help to give effect to the better sort of public opinion. It is, perhaps, a pity that the opportunity of political stalemate in 1950-1 was not taken by the late Government; a measure for this purpose would have been a worthy companion to the innocuous Highways (Provision of Cattle Grids) Act, 1950. It is the sort of subject which is never tackled by a Government concerned with the time-table of public business; it is, in ordinary times, eminently a subject for a private member's Bill. Something can be done by byelaws under s. 249 of the Local Government Act, 1933, for the good rule and government of the county or (less often in this context) the borough. The byelaw is, we believe, not always in the same form, but its general effect is that a person shall not without lawful authority uproot any ferns, primroses, or other plants growing in any road, lane roadside waste, roadside bank or hedge, common or other place to which the public have access. So far as it goes there is nothing in this to complain of, and it may be reinforced by byelaws under s. 90 of the National Parks and Access to the Countryside Act, 1949. The reason why such a byelaw is not more effective is practical: how to enforce the byelaw by catching the offender. Moreover, byelaws under these powers cannot properly give protection against persons who spoil the amenities of private lands, by picking flowers or digging up roots or bulbs, in places to which they gain access improperly. Such byelaws have been authorized by Parliament for the protection of the public, not to protect the owner or occupier of land against damage done by trespassers. This is a matter not for byelaws but for the general law. The cutting of trees or shrubs, with intent to steal, where damage to the value of a shilling or more is done, is an offence by s. 33 of the Larceny Act, 1861, while s. 36 is wider. The cutting of trees is thus a matter with which it would be possible to deal under the general law (such an act must be wilful) and in particular the removal of ivy, holly, and mistletoe can be dealt with under these sections.

Under the existing law relating to wilful or malicious damage (including s. 14 of the Criminal Justice Administration Act, 1914, which re-enacts s. 52 of the Malicious Damage Act, 1861) it is probable that convictions could be secured against persons who commit appreciable damage, but *Stone's* note on the case of *Gardner* v. *Mansbridge* (1887) 51 J.P. 442 and 612, and several other cases, in connexion with s. 14 of the Act of 1914, will repay careful study. It is unlikely that convictions could be secured against persons who take a few uncultivated plants, and it seems certain that those who merely pick wild flowers could not be convicted. Nevertheless the cumulative effect, when many persons each take a few plants or a few flowers, can be seriously detrimental.

The public mind is much more alive to this sort of detriment than it was when *Gardner* v. *Mansbridge* was decided, so that a private member's Bill designed to modify the law as settled in that case should have good chances of success. True, a Bill so framed as to give the impression that it involved an extension of the law of trespass would meet opposition, but if it were so framed as to show that it involved merely the remedying of a defect in, or the extension of, the law relating to wilful damage, in the interest not of property owners but of ramblers and others wishing to enjoy the country, it might be expected to win support from all the political parties. Such a Bill would have to take

account of the surviving provisions of the Malicious Damage Act, 1861; the Criminal Justice Administration Act, 1914 (which repealed ss. 52 and 53 of the Act of 1861, and substituted the provisions contained in s. 14 of the Act of 1914), and the surviving sections of the Larceny Act, 1861, with s. 8 of the Larceny Act, 1916; the National Parks and Access to the Countryside Act, 1949, and perhaps other provisions. It is, therefore, the sort of Bill which a lawyer would handle better than a layman. We commend the project to any private member who has legal qualifications and is lucky in the ballot.

COMMON POLICE SERVICES

This term describes those services centrally administered by the Home Office for the benefit of all provincial police forces. They comprise forensic science laboratories, wireless depots, police training centres and the Police College. Laboratories are situated at Birmingham, Bristol, Cardiff, Nottingham, Preston and Wakefield, each being under the control of a director with special qualifications. Wireless *depôts* at present number nine and are located at Billinge, Cheveley, Cranbrook, Hannington, Kippax, Marley Hill, Romsley, Shapwick and Stanton. Their purpose is to install and service police wireless equipment and although there are a number of forces without wireless all police authorities (except Lancashire and Birmingham who make their own arrangements) contribute to the cost on an equal basis. Police training centres are established at Bruche, Plawsworth, Pannel Ash, Mill Meece, Eynsham, Sandgate and Bridgend, (that is, one for each police co-ordination district). Each recruit attends a basic course for thirteen weeks, an intermediate course for two weeks after ten to twelve months' service and a final course of two weeks duration before completion of his two years' probation.

The Police College is located at Ryton-on-Dunsmore and provides courses of varying duration for the higher training of selected officers of all forces.

Net expenditure for the financial year ending on March 31, 1951, was estimated as follows:

	£
Forensic Science Laboratories	112,098
Wireless Depots	137,980
Recruit Training Centres	425,542
Police College	88,123
	£763,743

The net cost is divided equally between the Home Office and police authorities, the latter contributing for the year 1951/52 at the rate of £6 a head of authorized establishment (including the authorized establishment of women police officers). Home Office circular No. 46/1951 states that of the figure of £6 approximately £1 1*s.* 6*d.* is attributable to forensic science laboratories, £1 1*s.* 7*d.* to Police wireless, £3 1*s.* 3*d.* to recruit training and 15*s.* 8*d.* to the Police College. The total cost to a medium sized force with an establishment of say 400 is therefore £2,400: to a large force with an establishment of say 950 the bill totals £5,700. In a large force with an actual establishment of approximately this number use of the services provided has been made in the following way. Cases referred to the laboratories vary from year to year according to the incidence of crime: they have averaged ninety annually. Over a period of four years the force has had wireless installed and maintained in fifteen police cars. It has sent an average of seventy-four recruits for training annually and hopes to increase this number in the future. To the Police College an average of five officers have been sent annually for training for the higher ranks.

Formerly estimates of cost were prepared by the Home Office and submitted for scrutiny to the annual meeting of the Central Committee on Common Police Services on which representatives of the police authorities were appointed. It was felt, however, that this procedure did not give the police authorities sufficient control and accordingly in 1949 eight district local authority committees were established in addition.

The functions of these district local authority committees are the exercise of general supervision and the consideration and reference to the Central Committee on Common Police Services of the annual estimates of expenditure for training centres. They have no control over the forensic science laboratories or the wireless *depôts*. The Police College is controlled by a Board of Governors, on which local authorities are represented, who are responsible for the general and financial supervision of the college.

There have been criticisms of the training centres both in relation to the system of training and to cost. It has been said that the programme of training attempts to cover too much ground in the thirteen weeks of the probationer's stay and that it engenders a false idea of the nature of the average police constable's duties with resulting disappointment leading to numerous resignations when actual duties commence. No doubt H.M. Inspectors of Constabulary and chief constables keep these matters constantly in mind and adjustments will be made in the training programme if thought necessary.

With regard to cost a number of the larger police authorities have felt that the system is unnecessarily expensive and that they could train their own recruits at less cost than the contributions they are required to pay to the Home Office. Particular matters criticized have included the high cost of establishing centres and the standards of staffing employed. We understand that at one centre on which work is now proceeding the cost of purchase, adaptations and equipment to provide accommodation for 103 recruits is estimated at £98,000 and that in another case where accommodation is to be provided for 150 recruits an estimate of £193,000 has been submitted. These costs are high: they will have been included in the estimates for the year 1952/53 and in present stringent financial conditions it will be interesting to see whether a cut is made.

On the question of staffing, the present Parliamentary Secretary to the Minister of Housing and Local Government in February, 1951, asked the then Home Secretary:

"(1) In view of the fact that the ratio of instructors and staff to students at the Bruche Police Training Camp, near Warrington, was one to two and a half, whether he was satisfied with the ratio at the establishment:

(2) What was the net cost of the Bruche Police Training Camp, near Warrington, including the maintenace and heating and lighting costs of the building, for the nearest convenient twelve months; and what was the average weekly cost of training each student."

Mr. Ede replied:

"This centre accommodates 360 resident students. In addition to the Commandant and Deputy Commandant, there are twenty-one instructors in police duties and four in physical

education; eleven civilian administrative and clerical staff; and seventy-three indoor and outdoor domestic staff. For the financial year ended March 31, 1950, the net cost of the centre was £77,380 and the weekly cost for each student trained was £4 17*s.* 7*d.* For the financial year ended March 31, 1951, it is expected that these sums will be reduced. I am satisfied that the staff is not excessive and that the centre is efficiently and economically conducted."

Judged by the standards of domestic staffing which local authorities find adequate for the various institutions which they maintain the number employed at Bruche seems large, and if the district local authority committees function as intended they will carefully scrutinize figures of this sort as well as examining in detail all other items of cost. Police authorities now have considerable power to secure economies where they are satisfied of the necessity.

We understand and sympathize to some extent with the opinions of the larger police authorities but at the same time cannot overlook the undoubted advantage of the training centres to the medium sized and smaller forces. There are fifty forces of less than 200 establishment and the average size is 400. For the majority of forces the present system provides facilities which would otherwise be difficult, if not impossible, to obtain and in our opinion a discontinuance of the training centres would be a retrograde step. The same view holds for the forensic science laboratories. Wireless is somewhat different. The small number of *depôts* and the large area to be covered can only result in the waste of a great deal of time in travelling and in the expenditure of much money in providing transport. Steps should be taken to improve efficiency and reduce cost, preferably by decentralization. There is indisputable benefit in stationing a number of scientists at one fully equipped laboratory but the benefits of concentrating bands of wireless technicians at a small number of widely scattered *depôts* throughout England and Wales are not at all obvious.

THE BASIS OF RATEABILITY: PROPERTIES OCCUPIED BY LOCAL AUTHORITIES

[CONTRIBUTED]

The difference between schedule A and rating is essentially simple. Schedule A is an item of tax on income. Rates are, theoretically, paid for services rendered. The basis of rating is that the inhabitants of an area join together in financing agreed services; this holds good to an extent, even in modern conditions. The occupier of a large house is assumed to enjoy these services more than does the occupier of a smaller house, and therefore can be required to pay more through his comparatively higher rateable value. This is one example. It is not self evident in actual fact, for the occupier of the larger house may not, for example, have so many children at school as the occupier of the smaller house. Conversely, the latter may have valuables which make the house a bigger police risk than is the larger house. Then there is the length of road in front of the house, and the correspondingly varying costs of repair, lighting, and scavenging.

The simple position is complicated in many ways. Government grants are paid to local authorities. Also local authorities have ceased to have the last word in many of the services they provide. In police and education they are required by the State to maintain certain standards, and, if their general administration is below average, exchequer equalization grant may be withheld. Derating was a serious attack upon the sufficiency of the assumption that rates were levied for services received. And the great practical difficulty in assessing the respective parts of such undertakings as railways, electrical networks, etc., in each rating area has been met by the expedient of a "fair" centralized contribution distributed on a formula basis. Formularized value of certain dwelling-houses under Part IV of the Local Government Act, 1948, is another instance of complication of the original basis.

The basis of rating is still what rent the hypothetical tenant could be reasonably expected to pay for a hereditament let from year to year, if he undertook to pay all tenant's rates and taxes, and if the landlord undertook to bear the cost of repairs and insurance necessary to maintain the hereditament in a state to command that rent: *cp.* the Rating and Valuation Act, 1925, s. 68. Liability to be rated depends upon beneficial occupation. By statute or common law certain occupiers do not pay rates. Some exemptions under this head are of long standing, *e.g.*, churches and chapels, barracks, palaces, embassies, literary, scientific, and artistic societies' buildings, etc.

Apart from these statutory or common law exemptions, there are other occupiers whose occupation is, as a matter of law, incapable of being beneficial. There is the case of the occupation of a public park dedicated to the public in perpetuity. *Lambeth Overseers* v. *London County Council* (1897) 61 J.P. 580 the *Brockwell Park* case. On the other hand, a local authority has been held to be in beneficial occupation of a public library; *Liverpool Corporation* v. *West Derby Union* (1905) 69 J.P. 277. This question of beneficial occupation is a wide one. *Prima facie*, it embraces occupation of various buildings by local authorities for their many services.

It is a matter of importance to them for one peculiar and especial reason, *viz.*, because a substantial proportion of their income being rate income, they preserve an independence which marks local government in Britain. It enables them to be real partners with the State.

The latest case upon the rateability of occupation by local authorities, when the authorities were reviewed in the High Court was *Yorkshire North Riding County Valuation Committee* v. *Redcar Corporation* [1942] 2 All E.R. 589; 106 J.P. 11. This case concerned the ownership by the Redcar corporation of the fee simple of the foreshore and other lands adjoining it, on part of which a swimming bath, an open air swimming pool, a concert hall and shops, had been built and a boating lake had been provided. Other parts of the land, which included a juvenile swimming pool, a day nursery, a car park, etc., had not been assessed for rates. The case came to be decided under two headings—was the corporation the occupier of the properties which the valuation committee sought to bring into rating, and, secondly, if it was, was the occupation beneficial occupation?

Viscount Caldecote said (at p. 18 of the J.P. Report), ". . . the total income . . . was £11,512 18*s.* 9*d.* and the total expenditure after deducting sums for redemption and interest and expenses of a capital nature was £11,034 14*s.* 2*d.* . . . the enterprise was really carried on with the object of providing a great place of popular entertainment . . . It is not difficult to imagine a substantial rent being paid either by the corporation or by some amusement contractor for the privilege of being able to earn the very large revenue which the corporation has in the past received." The decision was that the corporation was in beneficial occupation.

In the court below, Cassels, J., pointed out that mere statutory authority to carry out a function did not prevent occupation from being beneficial and rateable. In *Jones* v. *Mersey Docks and Harbour Board* (1865) 29 J.P. 483, the House of Lords had held that the provision of hereditaments for "public purposes," as distinguished from private benefit, did not exempt from rates. The harbour board had authority to levy dues for the use of the docks and harbour, and the decision was (in effect) that the board should collect sufficient to enable them to pay, amongst other necessary outgoings, local rates. The position of being in beneficial occupation was not to be confused with profitable occupation, which, as it happened, was irrelevant to the case.

In the *Brockwell Park* case, Lord Halsbury, L.C. said (at p. 581 of the J.P. report), "No tenant would give anything for an occupation which would not give him a capacity to earn more than the rent which he is called upon to pay for it . . . Once it has been found that the occupation cannot as a matter of law be a beneficial occupation there is an end to the question . . . Here there is no possibility of beneficial occupation to the county council; here they are incapable by law of using it for any profitable purpose; they must allow the public free and unrestricted use of it."

In the case of *Trustees of Sir J. Soames' Museum* v. *St. Giles and St. George's Bloomsbury* (1900) 83 L.T. 248, Channell, J., said (p. 250), "Is not the real explanation of the *Brockwell Park* case this: assuming that the county council were occupiers they were not beneficial occupiers, because they occupied subject to rights of the public . . . which rights entirely exhausted the beneficial value of the thing? They were rights in the public which exceeded every possible value of the property . . . The hypothetical tenant would have to take it subject to those rights and therefore it would be worth no rent to him." About the judgments of Lord Halsbury and Lord Herschell in the *Brockwell Park* case, Channell, J., said: "Taking those two judgments together I think that the question whether there is any beneficial occupation in fact is not the point. The question is whether there can be any beneficial occupation as a matter of law."

Considered in the light of these last mentioned cases, the distinction upon which the library case, 69 J.P. 277, was decided is not immediately evident. Although a local authority has no statutory duty to provide a public library, it has power to do so, and having provided the library it is unable to use it for any profitable purpose. Section 11 (3) of the Public Libraries Act, 1882, provides that no charge shall be made for admission to the library, or, in the case of a lending library, for the use of it by the inhabitants of the local government area.

But the *ratio decidendi* of the case was that the council were occupying for the purposes of their public library a building which could be used for an alternative profitable purpose. It was not dedicated in perpetuity to the public as was the Brockwell Park. The council could move their library to another building. There is to be considered on that point another recreation ground case, which does raise a difficulty. In *Liverpool Corporation* v. *West Derby Assessment Committee* (1908) 72 J.P. 397, the corporation, whilst not charged with the duty of providing a public park, were empowered by a local Act to do so and had done so. They had power to sell all or any part of the lands purchased and not required for the park. The corporation were held not to be in beneficial occupation.

Presumably if other physical uses are to be considered, even in regard to a public park, the land might be used for agriculture, just as a building used for a public library could be considered usable for any other purpose for which planning permission could reasonably be expected on application. (The fact that agricultural land is for the time being derated completely is, in this, irrelevant.) Only the fact that Brockwell Park was on land dedicated in perpetuity distinguishes it from the Liverpool park.

The particular subject of the public park is the subject of an article at 115 J.P.N. 532, entitled: "Rateability of Public Parks," written on a decision of the Lands Tribunal. The Fulham borough council owned the South Park, acquired under the London County Council (General Powers) Act, 1922, s. 9 of which required that it be held and utilized for the purposes of a park, open space, or recreation ground. The county council were, under licence from the Fulham council, in possession of a pavilion in the park which they used as a civic restaurant. The appellants were the county council, who argued that the civic restaurant was a mere ancillary to the park and that their occupation was not rateable because the *Brockwell Park* case covered the question. The town clerk of Fulham argued that the county council was in occupation of a hereditament in the park, and was using it for a purpose other than a park. When asked about the power of his council to let the pavilion for that other purpose, he said that, even if under the Open Spaces Act, 1906, a park had to be held in trust for the public, the council could by appropriation under s. 106 of the London Government Act, 1939, change its status. To what extent this argument was accepted by the tribunal is not known.

Such an argument does, however, run counter to the *Brockwell Park* case. In the Liverpool park case (at p. 279) Kennedy, J., said: "Now in the *Brockwell Park* case, as with the *Putney Bridge* case (*Hare* v. *Overseers of Putney* (1881) 46 J.P. 100), there was under parliamentary authority a property which was for all purposes property of the public, and though, of course, an Act of Parliament may undo what a previous Act of Parliament has done, yet until such statutory alteration took place, Brockwell Park on the one hand, and Putney Bridge on the other, belonged to the public in the fullest sense." Appropriation under the London Government Act, or under the corresponding provision of the Local Government Act, 1933, would mean that so much of the park as was apppropriated would cease to be occupied as part of the park.

Some kinds of occupation may, in the words of Channell, J., in the *Soames' Museum* case, be subject to such rights of the public "as entirely exhaust the value of the thing." The difficulty here is that other kinds of hereditaments, *e.g.*, schools, council offices, sewage farms, etc., so long as they are occupied as such, are in no different case from a recreation ground so long as it is occupied as such. In the *Fulham* case the tribunal found that the county council were in beneficial occupation of the pavilion for their purpose of a civic restaurant, and were rateable in respect of it.

Although it cannot be considered as having the force of a High Court judgment, the *Fulham* decision of the Lands Tribunal does go well with the decision in the *Redcar* case, to indicate a significant development in the rateability of public parks. The trend seems to be to restrict rather than to enlarge the *Brockwell Park* decision. The position now seems to be that council offices, schools, libraries, sewage farms, and all other hereditaments of local authorities, including some public recreation grounds though not all, are rateable. Public recreation grounds are not rateable so long as they are used in a certain way, and that way involves the question whether profit is made or not.

As well as the *Fulham* case, the Lands Tribunal has recently (on August 28, 1951), decided another case concerning a recreation ground. The tribunal's decision was that the urban district council of Downham Market were not in beneficial occupation of a recreation ground which had been acquired, as a war memorial (the cost having been raised by public sub-

scription), and was held under the Open Spaces Act, 1906. The expenses of keeping up the ground by the council exceeded the income, which included a rent paid by the local federation of football and cricket clubs, for playing rights, and a right to close the ground and make a charge for admission to spectators. The tribunal considered that the facts of the case placed it somewhere between the *Brockwell Park* case and *Manchester Corporation* v. *Chorlton Union Assessment Committee* (1899) 15 T.L.R. 327, a case in which there was power under s. 44 of the Public Health Acts Amendment Act, 1890, to close the park for a limited number of days for agricultural shows and to charge for admission, and the *Soames' Museum* and other cases where hereditaments were held under private trust deeds. But in the *Downham Market* case the tribunal appears to have placed more importance upon the provisions of the deed under which the council acquired the ground than upon the fact that the authority for acquisition and holding was contained in an Act of Parliament. The habendum of the deed provided that the land would be held on trust "for the perpetual use thereof by the public for the purpose of exercise and recreation pursuant to the provisions of the Open Spaces Act, 1906." The fact that the tribunal considered all the circumstances of the case, and not only the provisions of the deed, rather indicates that the decision was regarded as applicable so long as the ground continued to be used as explained to the tribunal, and that if, *e.g.*, the council entered into a more lucrative agreement with sports clubs, the decision might not hold good.

As to this element of profit, if in regulating the use of a recreation ground a council does, as did the Redcar council, make charges more than enough to cover the cost of works, etc., done to the ground, they alter the status of the ground, and start to occupy a fresh hereditament. Possibly, if in such a case they did not charge more than cost, the occupation would continue to be the non-beneficial occupation of a public recreation ground. Moreover, occupation is a matter of fact. Even if an occupation be unlawful, it may be rateable. Whether the Fulham council lawfully or unlawfully allowed the London County Council to occupy the pavilion as a civic restaurant was irrelevant; the fact that the county council did so occupy was a deciding factor.

"EPHESUS"

REVIEWS

Solicitors and Local Authorities. By A. V. Risdon and J. R. Farrant. London: Butterworth & Co. (Publishers) Ltd. 1952. Price 47s. 6d. net.

Modern law books tend inevitably to assume the form of commentaries on the statute law, either in narrative form, or with a lay-out and method of treatment largely stereotyped by the arrangement of an Act. It is therefore a pleasure to come across a book dealing with a legal topic, which breaks new ground both in subject matter and in method of treatment. The authors of the present work are both solicitors in the employment of the city council of Exeter. The title of the work is perhaps a little wider than the contents strictly justify, but it would have been difficult to hit upon a convenient title expressing exactly what the book contains. A sub-title describes it "as a desk handbook on the practical handling of client and local authority matters, with forms, precedents, and office letters, for property transactions with local councils and planning authorities." The solicitor is not only a lawyer, but is also a man of business, the latter function being (as the authors remark in their introduction) too often overlooked. We have seen much, and many of our readers must have seen much more, of the loss to private persons through their employing, in property negotiations, persons with no legal qualifications, or even with few qualifications of any professional type, the solicitor being called in only after something had gone wrong. The negotiations and inquiries which have to be carried out by the property owner in connexion with development and even in the course of day to day management of his estate, can often be carried out better by a professional man with a legal background. This is not to say that all solicitors are skilled negotiators. We have come across some, who told their clients that their business was to give legal advice and nothing more, and others who declared, as if it were a merit, that they did not concern themselves with such things as town and country planning. It is in the hope of improving the standard of handling property transactions, where the owner becomes involved with local authorities, that Mr. Risdon and Mr. Farrant have produced the present work. It covers almost all the operations where the interests of the property owner and the duties of a local authority come into contact, with a possibility of coming into conflict. Thus the first letter in the book is from a solicitor intimating that his clients are prepared to take a lease of a site from the local authority. No less than twenty-five points then follow, where the solicitor should safeguard his client. The work is not, however, confined to precedents and suggestions to be used on behalf of private persons: the next three letters are precedents for the council to communicate with the district valuer and other necessary organs of the central government, after which come further letters to be used on behalf of private persons in relation to the same property—and so forth. This is but one illustration of the help given both to public officials and to private practitioners, in the conveyancing field. Much trouble and indeed much cost would be saved both to private persons and the public if pre-digested forms of letters such as are here presented were regularly used in both types of office. The [illegible] deals with planning practice, and starts with a description of the approach to be expected on behalf of the Minister of Housing and Local Government, and some account of the technical staff dealing with planning in a regional office of the Ministry. That most difficult and controversial topic, the effect of planning control and development charge on ordinary building operations, is approached through tabular statements, showing just what has to be done to comply with planning control and development charge, in respect of each part of the process. The technique of taking instructions to object to a development plan next appears and, after some intermediate letters, one reaches the drafting and approving of planning permissions. Here we are glad to see the learned authors emphasizing the importance of making conditions intelligible to the applicant, and indicating so far as possible precisely what the developer must do, so that he can budget in advance for the necessary costs. We have seen much hardship caused, since the Town and Country Planning Act, 1932, by the purported imposing of conditions so uncertain in effect that the owner did not know whether to appeal or not, and, if he did not, was left in doubt what he might do thereafter. Planning compensation, and a number of minor matters, follow within the same part. These are too numerous to note in detail but, by the time this part is finished, the precedents have run up to a hundred, and every conceivable point seems to have been thought of. Compulsory purchase orders, and the technique of contesting them, are dealt with just as fully—though fortunately there is not such a mass of detail to remember.

House purchase, loans and mortgages, improvement grants, and a variety of other matters arising under the Housing Acts with which the conveyancer is concerned, are dealt with, as also the solicitor's side of closing and demolition orders and repairs to private property at the instance of local authorities. The ancient and yet very modern topic, of rights of way and access, as affected by the National Parks and Access to the Countryside Act, 1949, supplies the basis for some valuable precedents. Not content with giving all this information the learned authors have set out the technique of taking instructions and making objections in regard to private street works and the like, with models of the correspondence on both sides, and have a valuable short chapter on the register of local land charges. Finally, there are notes in the appendix upon the practice when new byelaws are made, and upon registration under the Rent Restrictions Acts. Taking it all in all, we have not for some time come across a new departure in the field of legal publishing which promises so well from the two points of view, those of the public authority and the legal adviser to the private person.

Tristram and Coote's Probate Practice. Fourth (Cumulative) Supplement to Nineteenth Edition. By H. A. Darling and T. R. Moore. London: Butterworth & Co. (Publishers) Ltd. Price 9s. 6d.

This publication of 125 pages is in the form now standardized by Messrs. Butterworth for the supplements to their *Modern Text Books*. It is printed on strong but thin paper, with a tag going into the back pocket of the book, and it brings the nineteenth edition of *Tristram*

and Coote up to date as at the end of last November. The provisions noticed range from the Finance Act, 1946, to the District Probate Registries Order, 1951. Probate is part of the daily fare of the ordinary solicitor's office, and *Tristram and Coote* occupies a special position among his daily guides. It is essential to the interest of the client that the solicitor shall have at his fingers' ends as much as possible, not merely of the law but of the practice, and in the present publication we have found quite a number of changes in the latter. Some are more curious than vital, but others are important, and ignorance that the change had been made could prove embarrassing. The authors of this supplement are engaged, respectively, in the Principal Probate Registry and the Estate Duty Office, and are therefore familiar with the working law and with the office practice. It is, indeed, not merely from a client's point of view that a guide to practice is important: the solicitor himself can lose much time, and therefore money, if he is not familiar with the small changes which constantly occur. The main work and the supplement together cost £4 10*s.* and the supplement by itself 9*s.* 6*d.* net. Although this sounds a substantial sum for a paper inset to the volume, it is a sum which could be wasted in a few moments if the volume and the paper inset were not instantly available. While the office of the magistrates' clerk or the local authority will not, in the ordinary way, be concerned with probate practice, there can be none of our readers who is in private practice as a solicitor who can afford to be without the work.

SIGNAL

See him complying with the Highway Code—
When mobile policemen are on the road.

J.P.C.

PERSONALIA

RETIREMENT

Mr. T. H. Partridge, clerk to the Aldridge urban district council, is to retire after being in local government work for nearly forty years. He was appointed clerk to the old Walsall rural council in 1924 and in 1934, when the present Aldridge urban council was established, he became its clerk. Other positions held by Mr. Partridge are clerk to the Goscote joint committee since its inception in 1936, clerk to Barr Beacon joint committee since its formation in 1942, food executive officer from 1939 to 1949 and district sub-controller of civil defence during the war years. Mr. Partridge is to continue in practice as a solicitor. He will be succeeded as clerk to the Aldridge council by Mr. H. G. G. Nicholls.

OBITUARY

His Honour A. F. Topham, K.C., died on January 18 at his home in the Isle of Wight. He was seventy-seven. Called to the Bar by Lincoln's Inn in 1900, he took silk in 1922. In 1935 he took on the editorship of the Law Reports and held this appointment for six years. In 1939 he was appointed a county court judge of the Hampshire circuit. He retired in 1948. He was author of two text books, *Principles of Company Law* and *Law of Real Property*.

NOTICE

The next court of quarter sessions for the city of Hereford will be held at the Shirehall, Hereford, on Friday, February 1, 1952, at 10.30 *a.m.*

ASSAULT ON THE CITADEL

The Royal Commission on Marriage and Divorce is embarking on its task, and all persons of goodwill will wish it success in its labours. That the law is ripe for reform is almost universally admitted, but on the direction which the road to reform should take there are the most diverse opinions. There is scarcely any other matter of domestic policy on which personal feelings are more strongly expressed or on which the varying views put forward are so frequently actuated by subjective considerations.

"Marriages," says the proverb, "are made in Heaven." "Marriage," says Shaw, in *Man and Superman*, "is the most licentious of human institutions." And, in his *Revolutionist's Handbook*, "Marriage is popular because it combines the maximum of temptation with the maximum of opportunity." Between these extremes there is plenty of scope for argument. Perhaps the devil's advocate may be permitted to consider the problem from an unemotional, commonsense point of view.

That genius for compromise which is said to be a characteristic of the English-speaking peoples has given rise to many advantages, but has also produced an unfortunate dichotomy between precept and practice—between rendering lip-service to an ideal standard of conduct and at the same time acquiescing in, and applying the same description to, a course of behaviour diametrically opposed to the standard proclaimed. The supporters of the Bill of Rights of 1689 declared bravely that no cruel and unusual punishments ought to be inflicted, but saw no inconsistency in the retention of the obscene barbarities of semi-strangulation, castration and disembowelling alive of those convicted of high treason—a form of punishment not formally abolished until the nineteenth century. Similarly, those who framed the American Declaration of Independence, in 1776, asserted the principle that "all men are born free and equal," but did not thereby feel themselves precluded from retaining the institution of slavery for a further ninety-one years. It is perhaps this characteristic which confers the highest popularity on those writers who repeat worn-out platitudes in new and picturesque forms, rather than upon the few thinkers who write on original themes.

Much the same habit of "turning a blind eye" has for a long time past been characteristic of the law relating to marriage and divorce. Had the intentions of our legislators been directed to increasing adultery, immorality, irregular unions, juvenile delinquency and human misery in general, they could not have succeeded better in their aims than by the strict application (admittedly with the best of motives) of the rigidly legalistic system which has been built up over the past hundred and fifty years. Confused thinking is at the root of the problem.

The moralists are frequently telling the lawyers that family life is being broken up by the institution of divorce. This seems to bear about as much relation to reality as would a protest to the medical profession to the effect that surgery is destructive of health. Divorce (and separation) are the drastic remedies for, not causes of, a breakdown in marital relations; since prevention is admittedly better than cure, reform should surely start with the cautioning, restraining and guidance of those desirous of entering into marriage, rather than concern itself primarily with holding fast in matrimonial bonds those couples who never have been and probably never will be able or willing to make the relationship a success. In other words, it should be made less easy to get married, not more difficult to get divorced. To quote *Man and Superman* again, "Why, you would not make a man your lawyer or your family doctor on so slight an acquaintance as you would fall in love with and marry him!"

Historically, divorce was a punishment inflicted by the outraged husband on the erring wife—a punishment attended by the severest economic consequences in the days (which have only recently ended) when women were engaged exclusively in household tasks and were not accustomed to earning their own living. Today, as the overwhelming majority of undefended cases clearly indicates, divorce proceedings are generally welcomed by and frequently started at the request of the "guilty party" (man or woman), who regards them as a relief from an intolerable situation—the key that will unlock the door to freedom. In its refusal to give any but a negligible right to the "guilty" partner

the law preserves the outworn historical fiction that the proceedings are punitive, though every practitioner in the country knows perfectly well that such a description is appropriate only to one case in a hundred. And since the " guilty " partner will generally see that he secures his freedom at any cost, he will inevitably have recourse to those very acts—adultery, desertion or (in rare cases) cruelty—which the law officially deprecates and at the same time, with sublime inconsistency, drives him to commit, if he is to present the " innocent " party with a legally satisfactory case.

The practical evil of this system is twofold. In the first place it necessarily gives an advantage to the spouse who, once convinced that the marriage is doomed to failure, sets himself with cold premeditation to go through the accepted motions and carry out the formalities prescribed, to put himself or the other party in the wrong in the eyes of the court. It puts at a complete disadvantage the bewildered, the ingenuous, the merely stupid partner who, though his or her conduct may not have been exemplary, lacks the foresight to act in such a way as to build up a good case in advance. In the second place, by setting its face sternly against the amicable dissolution of a hopeless marriage by consent, the law automatically puts a premium upon malice, subterfuge, and spitefulness stopping just short of legal cruelty. The allegedly dreadful consequences of permitting divorce by consent (without the solemn farce of hotel bills, carefully drafted " incriminating letters" and *ad hoc* medical evidence) are not to be found in such advanced and well-governed communities as, for example, the Scandinavian States, where either of the parties may apply for a decree when they have lived apart for a certain period without any likelihood of resuming cohabitation.

Eminent persons in England are fond of asserting that marriage is not a mere personal contract, of interest solely to the parties thereto, but a sacred institution of the most vital concern to the community as a whole. So be it. How then can this attitude be reconciled with the refusal to dissolve the relationship when it has completely broken down in all but name, when the kernel has rotted away and only the empty shell is left? When the fundamental basis of mutual affection and respect, and the desire for companionship and cohabitation, are once palpably destroyed, the retention of the legal bond becomes a meaningless formality, an irreverent mockery of the very sanctity which it is the declared policy of the law to uphold. As to the children, if any, how can their security and happiness be served better by leaving them in a home filled with strife, spite and despair, or by placing them in the custody of one embittered parent, living apart from the other but still " married," than by making a clean break before indifference has given place to hatred, and while the parties, though realizing that they cannot live together, are willing to remain friends at a distance?

One other reform is vital, though it is difficult to see how this can be achieved by Act of Parliament. The prevalent practice of smearing the subject of marriage with a sweetish and sticky veneer, compounded of those much misused words " romance " and " glamour," should be abolished. Time was when these false disguises were used exclusively in the periodicals purveyed to young female domestic servants, as a solace for their drab and dismal environment; today, press, film and radio unite in treating married couples as if they were a carnival monstrosity, smothering the simple, honest, realistic human beings striving to make a success of home and family under a garish vulgarity. Perhaps it is not too much to hope that the better-class newspapers and periodicals will take the lead in a crusade against false sentimentality. " Marriage," says Selden, in his *Table Talk*, " is a desperate thing." It should at least be treated seriously. A.L.P.

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PRACTICAL POINTS

All questions for consideration should be addressed to "The Publishers of the Justice of the Peace and Local Government Review, Little London, Chichester, Sussex." The questions of yearly and half-yearly subscribers only are answerable in the Journal. The name and address of the subscriber must accompany each communication. All communications must be typewritten or written on one side of the paper only, and should be in duplicate.

1.—Adoption—*Payment in respect of—Whether maintenance order can be varied.*

I have to advise on the following point, upon which I shall much appreciate your views. A married woman got a separation order from her husband in a petty sessional court. In this order there was a direction that he should pay a certain sum every week for the maintenance of their child. She has since divorced him and was given custody of the child. The maintenance order is still in force.

Her parents (the child's grandparents) wish to adopt the child and I have been asked whether (*a*) the payment of maintenance each week can be made to the grandparents after adoption, the order being altered to that effect, and (*b*) this would constitute a payment under the Adoption Act which would require to be specially authorized by the order of adoption.

I have found no direct authority on the point but it seems to me that :

1. The effect of an adoption order is that all obligations and liabilities of the father in relation to the future maintenance of the child are extinguished under s. 10 of the Act. If this is the case an adoption order would automatically extinguish the order for maintenance.

2. I can find no authority for permitting the alteration of a maintenance order so that the maintenance is payable to any person other than the wife. TOM.

Answer.

Maintenance for a child, ordered under the Summary Jurisdiction (Separation and Maintenance) Acts, goes with legal custody. Further, payments under wife maintenance orders are to the wife or to some person on her behalf. Here, as our learned correspondent points out, the parental duty to maintain the child is extinguished by the adoption order and there is no means of varying the order as suggested.

However, we see no objection to the making of an application to the court to sanction the weekly payment by a parent, to a grandparent who is adopting, of such sum as may be agreed. If the court approves, by virtue of s. 37 (1) of the Adoption Act the fact that payment has been sanctioned will be stated in the order.

2.—Burial and Cremation—*Cemetery—Consecrated ground—Rights of other communities.*

This local authority has provided a cemetery under the Public Health (Interments) Act, 1879. Part only of the ground has been consecrated. The cemetery has been extended on more than one occasion and parts of the additional ground have also been consecrated. On each occasion it has been the practice here for there to be a consecration of the ground by the Church of England minister concerned and a Free Church dedication (of the same ground) by a non-conformist minister, who takes part in the joint ceremony. A question has, however, arisen whether such simultaneous consecration and dedication of the ground is desirable ; and there is a suggestion that, instead of a formal act of dedication by a Free Church minister (which does not appear to have legal effect), the Free Churches should be associated with the consecration ceremony by one of their ministers conducting a part of the service, *e.g.*, by taking some of the prayers in the service or by reading a lesson. Questions have also arisen on the use of consecrated ground for the burial of the bodies of persons who are not members of the Church of England and the appropriate form of service at such burials. On these points I have referred to s. 23 of the Cemeteries Clauses Act, 1847, and the Burial Laws Amendment Act, 1880, the last-named Act being applied to cemeteries provided by a local authority by s. 9 of the Burial Act, 1900.

Will you please advise me on the following points :

1. Do the words in s. 23 of the Cemeteries Clauses Act, 1847, which read "and the part which is so consecrated shall be used only for burials according to the rites of the established church" mean that a non-conformist may be buried in consecrated ground but only according to the rites of the established church ; or is the effect of s. 9 of the Burial Act, 1900, applying the Act of 1880, to allow burials in a local authority's cemetery without the rites of the established church ?

2. Does the practice of simultaneous consecration and dedication mentioned above itself enable the burial of the bodies of persons who are not members of the established church to take place in consecrated ground with a form of service appropriate to the religion of the deceased ?

3. Is a non-conformist minister precluded from conducting burials in consecrated grounds with his own form of service ?

4. Have you any observations on the practice of simultaneous consecration and dedication mentioned above, please ?

5. I would be glad if you would please refer me to any article published in the *Justice of the Peace* which would also be of assistance on these matters. CCA.

Answer.

1. The statutes do not concern themselves with the religious beliefs or affiliations of the deceased, but only with funeral rights. Consecration did before 1880 preclude burial otherwise than with rites of the Church of England ; the legal position in a cemetery provided under the Act of 1879 was not quite beyond argument under the definition of graveyard in the Act of 1880, but s. 9 of the Act of 1900 puts beyond doubt the right of burying even in the consecrated portion, with a ceremony other than that of the Church of England, or without any ceremony at all.

2. Some other religious bodies use ceremonies for setting apart land for burial of their members, and some do not, but such ceremonies do not affect the status of the land for the present purpose. Participation, as seems to be suggested here, between a church clergyman and a minister of some other body is legally nugatory, and cannot confer rights upon members of that minister's community.

3. No, subject to the Acts of 1880 and 1900. Nor is a Roman Catholic, a Jew, a Moslem, a pagan, or an infidel, precluded from burying in what he regards as an appropriate manner, so long as it is "decent and orderly."

4. This question involves ecclesiastical law, upon which we cannot claim expert knowledge, but it is to us a novel proposition, that land can be consecrated for Church of England burials otherwise than by the bishop of the diocese, or (we suppose) by an ecclesiastical officer deputed by him. We have not previously come across consecration by an ordinary clergyman, which seems to be suggested here. It seems, indeed, from text books upon ecclesiastical law that consecration of ground is effected by the bishop's "sentence." Although it has for centuries been normal for the sentence to be pronounced with religious ceremonial, it remains an exercise of jurisdiction, and participation by a minister of some other community seems out of place. While this is primarily a matter of ecclesiastical discipline, we think it would be wise for the public authority which provides the land, and is under a legal obligation to have part of it consecrated, to verify the procedure with the diocesan authorities.

5. You may find it useful to look at our article at 115 J.P.N. 437.

3.—Criminal Law—*Attempt to commit summary offence—Whether indictable or summary.*

Does the attempt to commit a summary offence constitute an offence in itself which can be prosecuted ; if so, can it be prosecuted summarily or only on indictment ?

9 *Halsbury* 40 says "every attempt to commit a felony or a misdemeanour, whether such felony or misdemeanour is created by statute or is an offence at common law, is itself a crime." It makes no distinction between an offence triable summarily or one triable on indictment.

Archbold's Criminal Practice, 31st edn., p. 1423, says "every attempt (not every intention) to commit a felony or misdemeanour is a misdemeanour at common law whether the crime attempted is one by statute or at common law" ; again there is no limitation to an indictable offence.

From the recent case of *R.* v. *Fussell* [1951] 2 All E.R. 761 ; 115 J.P. 562, it appears, however, that in order to constitute the offence of attempting it was necessary to show that it was an indictable offence, and apparently an attempt to commit a summary offence would not itself constitute an offence ; is it therefore correct to say that an attempt to commit a purely summary offence is no offence at law ?

Another curious result of *R.* v. *Fussell* would appear to be that a charge of taking and driving away a motor car without the consent of the owner can (subject to s. 28 of the Criminal Justice Act, 1948) be taken summarily even against the wishes of the defendant, but that a charge of an attempt to commit such an offence (surely a lesser offence) can only be taken summarily with the defendant's consent.

S. PUZZLED.

Answer.

It appears that the case of *R.* v. *Fussell*, *supra*, did not decide that an attempt to commit a summary offence is not itself an offence, but it did decide that an attempt to commit an indictable offence that

can be tried summarily is an offence which can be tried summarily by consent.

Certain attempts to commit summary offences are by statute made summary offences. Apart from these, they may perhaps be indictable but are certainly not summary. The point really turns on the meaning of misdemeanour, which is commonly limited to indictable offences other than felony, but is sometimes treated as including summary offences. The question is fully discussed in an article at 86 J.P.N. 550.

4.—Housing Act, 1949—*Loans for alterations—Second mortgage.*

I conclude from s. 4 (4) of the Housing Act, 1949, that a local authority may for the purposes in subs. 1 (*b*) (*c*) and (*d*) (but not, of course (*a*)) lend money on a second mortgage. Parliament, no doubt, had in mind for the first mortgage an advance under the Small Dwellings Acquisition Acts. I am of the opinion, however, that subs. (4) is *ex abundanti cautela*, and there is nothing to stop the first mortgage being to a building society. Do you agree? ESO.

Answer.

We take it that the part of subs. (4) which you regard as *ex cautela* is the reference to the local authority's own previous assistance. The earlier words in subs. (4), "free from incumbrances," do not seem material; they merely indicate the basis of valuation. Taking subs. (3), therefore, by itself, we think an advance on second mortgage can be made, though we find it hard to imagine a case where it would be proper.

5.—Housing—*Demolition order—Licence under Defence Regulations.*

A cottage was subject to a demolition order dated 1937 under s. 11 of the Housing Act, 1936. The cottage was opened in 1942 by licence under regs. 68A and 68AA of the Defence (General) Regulations, 1939, for occupation by two persons. The licence has been renewed from time to time and is still operative. There are at present more than two persons occupying the cottage and my council have under consideration the revoking of the licence. If the licence is revoked it would appear that s. 155 (3) of the Housing Act, 1936, becomes operative again and the occupiers will be liable to the penalties prescribed. I would like to know whether you agree, and also whether it is considered that the onus to evict the occupiers will then be on the owner. If the owner takes no action to obtain possession will he also be liable to the penalties under s. 155 (3)? BEDOE.

Answer.

We agree on all points.

6.—Husband and Wife—*Domestic proceedings—Court wrongly constituted—Whether order bad.*

In a recent case a complaint under the Married Women (Separation and Maintenance) Acts was dismissed. The bench determining the case comprised a number of magistrates in excess of those permitted under the Summary Procedure (Domestic Proceedings) Act, 1937, *viz.*, five altogether.

On these facts would the aggrieved complainant have a ground of appeal with reasonable prospects of success and is there any authority on this point?

It should be mentioned that no point was made at the hearing about the number of magistrates sitting. SEL.

Answer.

We dealt with a similar question at 111 J.P.N. 292.

We think there is ground for an appeal, but we do not presume to say what the High Court would decide. Possibly the order would be quashed on the ground that, the court being improperly constituted, the order was bad; or possibly the case might be remitted to be heard by a different, properly constituted, bench. We certainly think the point is worth taking to appeal.

We have not been able to trace any decision directly in point.

7.—Landlord and Tenant—*Housing Act*, 1936—*Local authority—Purchase of private houses—Rents.*

My council is considering the acquisition of ten houses in private ownership for a nominal figure. Repairs will have to be undertaken, if the houses are purchased, to make them reasonably habitable. Assuming that the houses are purchased under s. 72 (1) (*c*) of the Housing Act, 1936, and with the consent of the Minister they are included in the housing revenue account, can the local authority increase the rents or will they remain controlled under the Rent Restrictions Acts? B. HG.

Answer.

If they are "new control" houses, *i.e.*, were not governed by the Rent Restrictions Acts immediately before the Act of 1939, that Act will by virtue of s. 3 (2) (*c*) cease to apply to them upon their coming into the housing revenue account. But if they were subject to "old control" before the Act of 1939 (which looks like being so, if their value is but a nominal figure) there is nothing either in the Rent Restrictions Acts or in the Housing Act, 1936, or elsewhere, to enable the council to increase the rents.

8.—Landlord and Tenant—*Notice to quit—Waiver.*

Attention is drawn to the observations of the court in *Clarke* v. *Grant and Anor* [1949] 1 All E.R. 768. Is it considered that a landlord can now collect payments in respect of a tenant's occupation after the expiry of a notice to quit and while proceedings for possession are pending, provided that it is made clear that no new tenancy is intended? SALUS.

Answer.

The first point to consider is "to what period do the moneys collected relate?" The facts in *Clarke* v. *Grant*, *supra*, are important. The court has to decide whether a new contract has come into existence. We examined the problem (including the supposed "waiver of notice," which upon the case law we suggested was an inaccurate expression) at 114 J.P.N. 334, in course of an article which related, primarily, to another matter. *See* also P.P. 3 at 115 J.P.N. 577. The courts incline to hold that payment and acceptance of money is evidence of a contract, but by itself it is only evidence.

9.—Landlord and Tenant—*Sporting rights severed and let separately—Rabbits.*

The owner of Blackacre farm lets it on lease to A but reserves the sporting rights over the whole estate which she lets to B. (1) Is B entitled to sell the rabbits to a rabbit catcher? (2) Conversely is A entitled to sell off the rabbiting? (3) Could A contend that the person to whom he sells the rabbiting is a person *bona fide* employed by him for reward in the taking and destruction of ground game under s. 1 of the Ground Game Act, 1880. BAT.

Answer.

(1) What B has, assuming the letting to refer to "sporting rights" generally, is a right to take such creatures as are normally regarded as subjects of sport. This includes rabbits: *Jeffryes* v. *Evans* (1865) 13 L.T. 72, but in our opinion the reasoning of Erle, C.J., in this case

involves the conclusion that they must be taken by means normally regarded as sporting. We presume you are not speaking of a sub-letting by B of sporting rights in regard to rabbits, which would be another matter, depending on whether he had a right to sublet, but of his authorizing a rabbit catcher to use non-sporting means. We therefore say "no."

(2) No: *Jeffryes* v. *Evans*, *supra*.

(3) No: in our opinion this provision of the Act refers to a person such as a rabbit catcher paid by the tenant, not a person who makes a payment to the tenant.

10.—Landlord and Tenant—*Subletting in breach of covenant—Tenant dies after holding over—Position of subtenant.*

At the date of her death A was holding over as a statutory tenant under a lease which had sometime previously expired and contained a covenant against sub-letting. A sub-let part of the premises without the knowledge or consent of the owner. A has now died leaving B and C the executors of her will. Has the owner any remedy whereby he can obtain vacant possession of the whole, or is he bound to accept the sub-tenants and, if so, at what rent, for the sub-tenants were paying to A for a portion only of the premises considerably more than A was paying to the owner for the whole. ECU.

Answer.

The sub-tenants have on the facts stated no *locus standi*, and the owner is not bound to accept them or allow them to continue.

11.—Magistrates—*Practice and Procedure—Criminal Justice Act*, 1948, *s.* 17 (2) *and* 17 (3)—*Reason for committal to prison—Offence of refusing to attend for medical examination for national service.*

A defendant who is under twenty-one years is charged with failing to submit to a medical examination, contrary to the National Service Act, 1948.

He is of good character but is defiant.

In the event of the justices committing him to prison, what appropriate reason should be shown in the warrant of commitment.

J. LEX.

Answer.

The reason to be stated in the warrant of commitment must be, of course, the same as that stated by the court at the time imprisonment is imposed. By s. 17 (3) of the 1948 Act a summary court has to *state* its reason, and then this reason has to be specified in the warrant of commitment and entered in the court register kept under s. 22 of the Summary Jurisdiction Act, 1879.

In the circumstances outlined we can well imagine a court stating that they felt obliged to impose imprisonment because no other method of dealing with so defiant an offender seemed to them to be appropriate.

12.—Open Spaces Act, 1906—*Administration of recreation ground by parish councils.*

My council have adopted a scheme of acquiring recreation grounds and after carrying out certain capital works they would be prepared to allow parish councils to administer the grounds: the parish councils would also be responsible for routine maintenance of ground fixtures, equipment, and buildings. Generally the parish councils are anxious to undertake the administration and maintenance but have expressed doubt as to whether they would be entitled to expend money for this purpose as they have no legal interest vested in them. The Open Spaces Act, 1906, s. 10, provides that a parish council may administer an open space where it has control over the open space and your opinion is sought:

(*a*) As to whether an agreement between the district and parish council delegating to the latter body the power of administration including routine maintenance of an open space would constitute the granting of "control" to the parish council.

(*b*) If the answer to (*a*) is in the affirmative whether, as appears to be the case (*vide* s. 20, Open Spaces Act, 1906) the construction of buildings would not alter the position.

(*c*) If the answer to (*a*) is in the negative is it possible, as for example by the parish council's making a nominal contribution to the district council towards the cost of acquisition, to give effect to the district council's proposal for delegation of administration and maintenance to the parish council? COUNTY.

Answer.

(*a*) We think so. The section plainly does not require a legal estate or interest, but note that the parish council are not a local authority within this Act unless invested by the county council.

(*b*) We agree. *Lumley's* note at p. 835 of twelfth edn. (p. 5021 of eleventh) is of interest.

(*c*) If the parish council have not been made a local authority within the Act of 1906 (which we suppose the rural district council are using because s. 164 of the Public Health Act, 1875, is not available to them), they can use s. 8 (1) (*d*) of the Local Government Act, 1894. This also speaks of "control," which can be merely *de facto*.

13.—Private Street Works Act, 1892—*Provision of sewer—Premises with cesspools.*

The council are proposing under the provisions of this Act to make up a street consisting of residential properties with cesspool drainage only. These are modern properties erected about fifteen years ago and there is no suggestion that the cesspool drainage is insufficient or unsatisfactory, cesspools having been provided by the owners since no soil sewer exists. As part of the private street works it is intended to construct a soil sewer, the cost of which will be included in the apportionment.

In these circumstances would you please advise whether

(*a*) Objection might be raised that the construction of the sewer is unreasonable on the grounds that sufficient drainage already exists;

(*b*) If the sewer is constructed the owners cannot be compelled to abandon their cesspool drainage and connect to the sewer except at the expense of the local authority (Public Health Act, 1936, s. 42). DIT.

Answer.

(*a*) In our opinion, objection to the sewer can be raised on ground (d) in s. 7 of the Act of 1892: *Sheffield Corporation* v. *Anderson* (1894) 64 L.J.M.C. 44. Whether the objection should prevail would have to be considered in the light of all the facts.

(*b*) If the sewer is constructed, then so long as a cesspool is efficient the owner cannot be compelled to connect to the sewer instead except under s. 42. This seems to us to be a factor which the justices may properly consider under (*a*), notwithstanding *Allen* v. *Hornchurch U.D.C.* [1938] 2 All E.R. 431; 102 J.P. 393.

14.—Public Health Act, 1936—*Farm cottage occupied without rent—Farmer pays rent for whole property—Owner.*

We act for the tenant of a farm held under a lease from the freeholder who was let all that farm including cottages and grassland for seven years at a yearly rent for the whole. There is only one dwelling on the farm which is a cottage occupied by an agricultural worker in the service of our client. This workman occupies the cottage rent free as part of the terms of his engagement. The lease by the freeholder contains no landlord's covenants or tenant's covenants of any sort, and we therefore think that the provisions of the Agriculture (Maintenance Repair and Insurance of Fixed Equipment) Regulations, 1948, S.I. 1948, No. 184, apply and the freeholder is responsible for repairs to the exterior of the cottage. The local authority acting under s. 93 of the Public Health Act, 1936, have served a notice upon the tenant to abate a nuisance arising from the defective condition of the roof, the defective chimney and chimney fillets, and the broken and missing eaves and guttering of the one dwelling, for which in our opinion the freeholder is responsible under the lease as between himself and the tenant.

We have had some correspondence with the clerk of the local authority, and have contended that the freeholder is the owner within the meaning of s. 343 of the Public Health Act, 1936, because he is the only person receiving a rackrent, while our client receives no rent. We have looked at *Lumley* (11th edn.) notes on s. 343 on pp. 702 and 703 and we cannot find any authority which directly deals with the point. The decision of most help to us which we have found is that of *Nalder* v. *Ilford Corporation* [1950] 2 All E.R. 903: on p. 907 between letters D and E, Sellers, J., appears to say that if a rackrent is received the person receiving it is the owner. AP.

Answer.

We agree as to the Regulations of 1948 which place liability on the freeholder as a term in the demise to the farmer. Since there is a rack-rent of the cottage (or so we assume: that is to say, we assume that in fixing the proper rent for the farm an adequate sum is included for the cottage) it becomes unnecessary to consider the second limb of the definition in s. 343 of the Act of 1936: *Kensington Borough Council* v. *Allen* (1926) 90 J.P. 105, *per* Lord Hewart, C.J., p. 106. That definition seeks to find a person who is owner of the premises as a physical entity, not, as "owner" means in some contexts, a person who stands in a particular relation to the occupier. We agree with your conclusion.

15.—Public Health Act, 1936, s. 24 (1)—*Form of notice—Time for appeal after.*

I have recently had occasion, on behalf of my council, to serve notice of the council's intention to carry out works to a length of sewer to which s. 24 of the Public Health Act, 1936, applies. I attach a copy of the notice.

The owner's solicitors have advised their client "not to recognize the notice as valid, as it did not state the owner's right to appeal."

It appears to me that as the notice is not one to which Part 12 of the Act is declared to apply and is, therefore, outside s. 290 there is no right of appeal (*sic*) afforded to the owner nor are the local authority

under any obligation to do more than " consider " any representations as to the need for, or reasonableness of, the proposed work which may be made to them by the owner within the prescribed period.

There would appear, in fact, to be no " requirements " contained in the notice against which an appeal might be made and that, in these circumstances, no question of appeal by the owner arises until after the works referred to in the notice have been carried out and completed by the local authority.

Your valued opinion is requested please on :

(*i*) Is the notice served upon the owner a valid notice for the purposes of s. 24 (1) ?

(*ii*) Can an owner appeal to a court of summary jurisdiction at any time after the service of a notice under the proviso to subs. (1) ; and

(*iii*) If the answer to (*ii*) be in the negative at what stage may such an appeal be made ? FEN.

Answer.

In our opinion :

(*i*) The notice is a valid notice for the purposes of s. 24 of the Public Health Act, 1936.

(*ii*) The owner may take action in accordance with subs. (3) of the section by applying to a court of summary jurisdiction to determine the matter. This however is not an " appeal " : *cf.* 112 J.P.N. 222 upon the difference between para. (*a*) and para. (*b*) in s. 300 (1).

(*iii*) The limit of twenty-one days from the date on which notice of the council's decision was served upon the person desiring to appeal (s. 300 (2)) does not extend to an " application," nor does subs. (3) of s. 300, which is evidently what the owner's solicitors have in mind.

16.—Rating and Valuation—*Unused sporting rights—Suggested void allowances.*

There exists in a river a stretch of water in which the exclusive right of fishing for salmon by means of nets is vested in the Crown. The bed of the river and the exclusive right of fishing were let to the local fishery board at a rent of £200. The object of the lease was to prevent the right of fishing from being exercised, and an express covenant to that effect was contained therein. The rights of the fishery board have now vested in the local river board under the River Boards Act, 1948. The river board are now claiming against the rating authority that rates are not payable in respect of the fishery in view of the covenant referred to above and that the hereditament should be treated as void. Such contention was not put forward by the fishery board or by any previous lessee. The river board point out that the effect of not working the fishery is to increase the value of the private fisheries generally in the river wherefrom the rating authority may derive additional income. I shall be glad of your advice as to whether rates are payable on this fishery or not. SEF.

Answer.

When sporting rights are let by deed, to a person who is not occupier of the land over which they are exerciseable, either the owner or the lessee of the rights " may be rated as the occupier thereof." In the case before us the owner cannot be rated, so it must be the river board if anybody. We know no authority on the question whether unused sporting rights are " void " in the rating sense, and where a lessee is at liberty to use the rights he has, but does not do so, he should in our opinion be regarded as rateable. Where a lessee of sporting rights has expressly covenanted not to use those rights we can see some danger of his being treated by the court upon a case stated as not in occupation of them, but in absence of authority we do not think the rating authority are justified in conceding the point.

17.—Real Property—*Mortgagee's conveyance to himself—Law of Property Act*, 1925—*Private Street Works Act*, 1892.

In 1914 the X council applied the provisions of the Private Street Works Act, 1892, to a street, and such street was made up and adopted. The owners of a small plot of land fronting on to the street could not be traced, and the appropriate statutory procedure in such an event was applied. Under a county review order the X council was abolished, and the small plot of land was included in my council's area. The Private Street Works debt against the land remains outstanding, and my council now desire to acquire the fee simple of the land and to erect two houses thereon. No title to the land has been acquired by any person since the debt became due. In pursuance of the powers contained in s. 101 (1) (i) of the Law of Property Act, 1925, I propose to exercise the power of sale by the council conveying the land to itself as provided for by s. 72 (3) of the 1925 Act. It would not appear that it is necessary to serve the notices referred to in s. 103, as interest is in arrear and unpaid since the debt became due.

Would you please advise whether the procedure outlined is correct ? A. ABEE.

Answer.

We agree.

18.—Road Traffic Acts—*Goods vehicles—Keeping of records—Position of employed driver when vehicle used for a purpose for which it may lawfully be used without a licence under the* 1933 *Act.*

I have read with interest your opinion on the above subject set out in P.P. No. 11 at 115 J.P.N. 642.

I should be pleased to know in this connexion if your attention has been drawn to the issue by the Ministry of Transport Printed Memorandum No. G.3/9, January, 1936, regarding the " Goods Vehicles (Keeping of Records) Regulations, 1935," wherein the last paragraph of art. 25 of the memorandum gives a direction contrary to your opinion and reads as follows :

" The owner-driver need not keep any record when he himself is driving an authorized vehicle on a journey which is in no way connected with his trade or business, *e.g.*, when he is using the vehicle for purposes of pleasure. It is important to note that this exemption only applies when the owner-driver himself is driving ; a record must be kept if a paid driver is employed." JCW.

Answer.

We are obliged to our correspondent and we must admit that we had not had our attention drawn to the memorandum in question. The opinion therein expressed appears to be based on reg. 6 (5) quoted in the P.P. to which our correspondent refers. We adhere to the opinion which we expressed. In our view the keeping of records is based upon s. 16 of the Act, and the duty of keeping or causing to be kept the requisite records is put upon *the holder of a licence*. If the use of the vehicle is such that by s. 9 (2) the conditions of the licence are not to apply we think this takes the matter outside s. 16 and outside the regulations, and one does not have to consider reg. 6 (5) or any other regulation.

19.—Road Traffic Acts—*Public service vehicle—disqualification of driver under Part I of* 1930 *Act—limitation of disqualification to driving of public service vehicles.*

Recently A was charged with " using a motor vehicle without insurance contrary to s. 35 of the Road Traffic Act, 1930," and B with " permitting A to use a motor vehicle without insurance contrary to s. 35 of the Road Traffic Act, 1930 " (not being offences under Part IV of the Act).

Both defendants pleaded guilty. In addition to imposing a penalty the justices disqualified each of them from driving public service vehicles for twelve months, as such was the class or description of the vehicle in respect of which the offences were committed.

The secretary of the Northern Area Licensing Authority maintains that it was not within the power of the justices to do this, as his authority is the only body capable of issuing or revoking driving licences for public service vehicles.

In view of s. 6 (1) of the Road Traffic Act, 1930, and the case of *Burrows* v. *Hall* [1950] 2 All E.R. 156, your opinion as to whether or not the action of the justices was within their power will be much appreciated. J.CARN.

Answer.

A public service vehicle driver needs two licences, one issued under Part I and one under Part IV of the 1930 Act. If he is disqualified under Part I of the Act for holding a licence under that part, his licence as a public service vehicle driver under Part IV automatically becomes valueless for the period of such disqualification. We see no reason why the disqualification should not be limited as was done in this case. The matter seems to us to be covered by the proviso to s. 6 (1) of the Act, and the case referred to.

20.—Road Traffic Acts—*Special types—Engineering plant—No brake on living van and no chain or scotches provided.*

Your valued opinion on the following circumstances would be much appreciated.

A three ton motor lorry drawing a four wheeled, pneumatic tyred, living caravan trailer was recently stopped by a constable in this division, he having noticed that the wire brake cables were tied to the draw bar, the driver thereby having no effective control of the braking system fitted to the caravan, which was being drawn at twenty m.p.h. The constable duly reported the driver under reg. 50 of the Construction and Use Regulations, 1947, and the firm employing the driver for permitting the alleged offence.

These alleged offences have since been challenged by one of the directors of the firm, he having produced an extract from literature issued by the Road Roller Owners' Association, and claimed that the Authorization of Special Types General Orders, 1941, and not the Construction and Use Regulations, applies to this vehicle.

There were no chains or scotches provided for the van and, as mentioned, the brakes were completely ineffective. It is not known whether the caravan was carrying " road material or similar burden."

As this trailer was not complying with reg. 11 (3) (*j*) of the (Authorization of Special Types) General Order, 1941 (S.R. & O. 1941, No. 987), I contend that the wire cables should have been connected to the lorry in such a manner as to have given the driver effective control of the brakes.

I have not overlooked reg. 11 (5) regarding speed, but as this was not dealt with by the constable at the time the matter of brakes only was taken up. JIX.

Answer.

On the facts stated we think that the offence here was against s. 3 (3) of the 1930 Act and consisted in the use on a road of a trailer, to which art. 11 (3) of the 1941 Authorization of Special Types Order applied, which did not comply with art. 11 (3) (*j*) in that when drawn by a vehicle which was not a locomotive it was neither fitted with an efficient brake nor provided with scotches or other similar devices.

As the living van was not, apparently, detached from the towing vehicle the question of the chain [*see* 1947 Construction and Use Regulations, reg. 82 (1)] did not arise.

21.—Road Traffic Acts—*Speed limit—Utility vehicle licensed under the* 1933 *Act—Position when it is used for a purpose for which no such licence is required*

The particular vehicle I have in mind is an Austin A40 Countryman with two side-doors and two doors at the rear. There are two seats in front and three seats immediately behind these. At the rear of these seats is a platform to which access is gained from the two rear doors. The vehicle is taxed " goods and private " and is authorized to be used under a " C " carrier's licence, the identity certificate of which is displayed.

If this vehicle is to be regarded as a goods vehicle, and, proceeding from the decision of *Hubbard* v. *Messenger* (1938) ; it would appear to be so classified, then the speed limit is thirty *m.p.h.* Having regard to the Motor Vehicles (Variation of Speed) Regulations, 1950, it would seem that, as this vehicle is an authorized vehicle under the Road and Rail Traffic Act, 1933, it is not exempt from the speed limit imposed by sch. 1 to the Road Traffic Act, 1930, and is thus limited to thirty *m.p.h.* at all times.

Section 9 (2) of the Road and Rail Traffic Act, 1933, states : " Notwithstanding that a vehicle is an authorized vehicle, the conditions of the licence shall not apply while the vehicle is being used for any purpose for which it might lawfully be used without the authority of a licence." One of these conditions is shown at s. 8 (1) (*b*) " *that any provisions* (whether contained in any statute or in any statutory rules or orders) *with respect to limits of speed* and weight, laden and unladen and the loading of *goods vehicles, are complied with* in relation to the authorized vehicles."

I should appreciate your advice on the following questions.

1. If the utility vehicle is licensed under the Road and Rail Traffic Act, 1933, is the speed limit thirty *m.p.h.* or does this apply only when the vehicle is actually carrying goods ?

2. If this vehicle is used by the owner for his own private use is the speed limit thirty *m.p.h.* despite it being licensed under the Road and Rail Traffic Act, 1933, and taxed as " goods and private " ?

3. If any goods vehicle is used for any purpose other than the carrying of goods will s. 9 (2) Road and Rail Traffic Act, 1933, operate to relieve the user of the vehicle from the conditions in s. 8 (1) Road and Rail Traffic Act, 1933 (as amended by the Transport Act, 1947) ? JAN.

Answer.

1. In our view the thirty *m.p.h.* limit applies only when the vehicle is used for a purpose for which it cannot lawfully be used without the authority of the licence under the 1933 Act.

2. *See* 1.

3. Yes.

22.—Theatre—*Whether there is a legal obligation to keep a number of seats " unreserved."*

Is there any reason, in law, why a theatre owned by a local authority (or for that matter by a private person) should have any seats (twenty is the number " rumour " has fixed on) set aside to be sold as " unreserved " at the time of the performance, or may all be sold in advance ?

There is no condition to that effect on either the music and dancing licence or the Theatres Act, 1843, licence. It is admitted that if unreserved seats are mentioned in any advertisement for a play or concert there is a moral duty to keep some, but that doesn't touch the point at issue. NEO.

Answer.

There is nothing in law to prevent all the seats in the theatre being sold " in advance " of the performance.

23.—Theatres—*Excise licence authorizing sale of intoxicating liquor—Conditions—Sundays.*

The lessee of a local hall holds licences for (*a*) the public performances of stage plays under the Theatres Act ; (*b*) public dancing, singing, music or other public entertainment of the like kind under the Public Health Acts Amendment Act, 1890 (which permits musical entertainments on Sunday evenings) and (*c*) cinema performances under the Cinematograph Acts.

He also holds an excise licence (but not a justices on-licence) for the sale of intoxicants under the Excise Act, 1835, as amended.

I have been asked to advise whether under this excise licence the proprietor of the hall can supply intoxicants during the performance of entertainments other than stage plays (for example, musical concerts or cinematograph performances) (i) on weekdays, and, in particular, (ii) on Sunday evenings, within, of course, the permitted hours for the district.

The 1951 edition of *Paterson* at the foot of p. 271 draws attention on this point to two conflicting opinions in 96 J.P.N. 528 and 110 J.P.N. 583 respectively, whilst, at the top of p. 272 of *Paterson* a note states that " it may well be that the opinion expressed in 96 J.P.N 528 is the correct one and that liquor can only be sold under an excise licence in a theatre when a stage play is being produced."

In the circumstances, and in view of the two conflicting opinions expressed in the two volumes of your newspaper, to which I have referred and which I have consulted, I shall be glad if further careful consideration can be given to the points in question, and if I may have your views upon them. N. EXON.

Answer.

We also answered a question on a similar point in our vol. 114 at p. 229.

This is a question of much difficulty upon which we cannot say more than that our present opinion is that expressed in our answer to a Practical Point at 110 J.P.N. 583. An excise licence is granted as an annual licence to the holder of a licence under the Theatres Act, 1843 : it is subject to the conditions imposed by the badly drafted No. 4 of the Provisions applicable to Retailers' On-Licences contained in sch. 1 to the Finance (1909-10) Act, 1910 : contravention of these conditions is an offence under s. 50 (4) of the Finance (1909-10) Act, 1910, creating liability to an excise penalty of £50. No question touching the scope of the conditions has ever been considered by the High Court, nor, so far as we are aware, have the Commissioners of Customs and Excise taken proceedings in any of the many cases which we see around us where the conditions are given the wider interpretation.

On only one point raised by our correspondent can we give a confident answer. A licence under the Theatres Act, 1843, does not permit a theatre to open as such on Sundays, and the Sunday Entertainments Act, 1932, does not apply to theatres as such. Therefore, an excise licence issued to the holder of a stage play licence does not, in our opinion, authorize the sale of intoxicating liquor on Sundays.

See our answer to a Practical Point at 104 J.P.N. 718.

OFFICIAL AND CLASSIFIED ADVERTISEMENTS, ETC. (*contd.*)

SURREY PROBATION AREA

Appointment of Full-time Female Probation Officer

APPLICATIONS are invited for the appointment of a full-time female probation officer. Applicants must not be less than twenty-three nor more than forty years of age, except in the case of a full-time serving probation officer.

The appointment will be subject to the Probation Rules, 1926-50, and the salary will be in accordance with the prescribed scale.

The successful applicant may be required to pass a medical examination.

Applications must be made on forms to be obtained from the undersigned, and should reach him not later then Tuesday, February 12, 1952.

E. GRAHAM,
Secretary of the County Probation Committee.

County Hall,
Kingston-upon-Thames,
Surrey.

CITY OF PLYMOUTH

Junior Assistant Solicitor

APPLICATIONS are invited for the appointment of Junior Assistant Solicitor in my office within Grades Va—VII (£600—£760 per annum) of the A.P.T. Division of the National Scales. Commencing salary will be according to the date of admission. Previous experience in a local government office is not required; good conveyancing experience is essential. The appointment is superannuable, and the successful applicant will be required to pass a medical examination.

Applications, which must be received by me not later than Tuesday, February 19, 1952, should give particulars of the applicant's age, education, articles, date of admission, present and previous appointments and legal experience, and should state the names and addresses of not more than two referees as to character and ability.

COLIN CAMPBELL,
Town Clerk.

Pounds House,
Peverell, Plymouth.

MONMOUTHSHIRE COUNTY COUNCIL

Assistant Solicitor

APPLICATIONS are invited for appointment on the staff of the Clerk of the County Council from Admitted Solicitors for the Post of Assistant Solicitor. Knowledge of Local Government Administration is desirable but not essential.

The salary will be in accordance with A.P.T. Grade VIII (£735×£25—£810).

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the National Joint Council's Conditions of Service. The successful candidate will be required to pass a medical examination and to devote the whole of his time to the duties of the office.

Applications on a prescribed form, which may be obtained from me, must be forwarded so as to be received not later than February 9, 1952.

VERNON LAWRENCE,
Clerk of the County Council.

County Hall,
Newport, Mon.

BOROUGH OF HAMPSTEAD

Deputy Town Clerk

APPLICATIONS are invited for the appointment of Deputy Town Clerk at a commencing salary of £1,250 per annum, rising by annual increments of £50 to £1,400 per annum.

Applicants must not exceed 45 years of age and must be solicitors with wide experience of municipal administration.

The officer appointed will be required to pass a medical examination, to contribute to the superannuation fund and to give the whole of his time to the service of the Council.

The appointment will be subject to the Council's conditions of service and will be terminable by three calendar months' notice on either side.

Applications, endorsed "Deputy Town Clerk," stating age, qualifications and experience, date of admission, particulars of past and present appointments and giving the names and addresses of three referees, must reach the undersigned by February 13, 1952.

Canvassing will disqualify and candidates must disclose whether to their knowledge they are related to any member or senior officer of the Council.

P. H. HARROLD,
Town Clerk.

Town Hall,
Haverstock Hill, N.W.3.
January, 1952.

BOROUGH OF ALDERSHOT

Appointment of Town Clerk

APPLICATIONS are invited from Solicitors with wide municipal experience for the appointment of Town Clerk at a commencing salary within the range of £1,350—£1,550 per annum, according to qualifications and experience with four annual increments of £50.

The successful candidate will be required to devote the whole of his time to the statutory and other duties of the post.

The appointment will be subject to the provisions of the Local Government Superannuation Act, 1937; a satisfactory medical examination and termination by three months' notice in writing by either party. The conditions of the appointment shall be those laid down by the Joint Negotiating Committee for Town Clerks.

Applications, endorsed "Town Clerk," stating age, qualifications, appointments and experience, and accompanied by copies of two recent testimonials must be received by the undersigned not later than February 11, 1952.

The person appointed will be required to take up his duties on July 1, 1952.

D. LLEWELLYN GRIFFITHS,
Town Clerk.

Municipal Buildings,
Aldershot.
January, 1952.

CITY OF WAKEFIELD

Appointment of First Assistant to Clerk to the Justices

APPLICATIONS are invited for the above appointment.

Applicants should have had extensive experience of the duties of an assistant to a Justices' Clerk including the typewritting of depositions, and be capable of acting as Clerk of the Court when required. The salary will be equivalent to Grade A.P.T. V of the N.J.C. Scales (£570-£620 per annum).

The appointment is subject to the provisions of the Local Government Superannuation Act 1937 and the successful candidate will be required to pass a medical examination.

Applications, stating age and particulars of experience, with names and addresses of three persons to whom reference may be made, and endorsed "First Assistant," should reach the undersigned not later the February 6, 1952.

RALPH SWEETING,
Clerk to the Justices.

Magistrates' Clerk's Office,
Town Hall, Wakefield.

URBAN DISTRICT OF SOLIHULL

Appointment of Deputy Clerk

APPLICATIONS are invited from solicitors for the above appointment at a salary of £1,000×£50 to £1,250 per annum, subject to review on the issue of the recommendations of the Joint Negotiating Committee for Deputy Clerks. The appointment is superannuable and terminable by three months' notice.

Applications, stating age, qualifications and previous experience, to be submitted with the names of three persons to whom reference can be made, to the undersigned not later than February 7, 1952.

The Council will endeavour to assist in the provision of housing accommodation if required.

W. MAURICE MELL,
Clerk and Solicitor of the Council.

Council House, Solihull.

COUNTY OF LANCASTER

Manchester Petty Sessional Division

Appointment of Assistant Solicitor

APPLICATIONS are invited for the above appointment from solicitors desirous of gaining experience in a Justices' Clerk's office. A knowledge of Magisterial Law and Practice is desirable and some experience as an advocate will be an advantage.

The salary will be in accordance with Grade VII (£685/£760 per annum) of the National Joint Council Scales.

The appointment is subject to the provisions of the Local Government Superannuation Act, 1937, and the successful applicant will be required to pass a medical examination.

Applications, stating age, qualifications, experience and particulars of position held in recent years, with the names and addresses of three persons to whom reference may be made, and endorsed "Assistant Solicitor" must reach the undersigned not later than February 11, 1952.

G. S. GREEN,
Clerk to the Justices.

County Magistrates' Court,
Strangeways, Manchester, 3.

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